


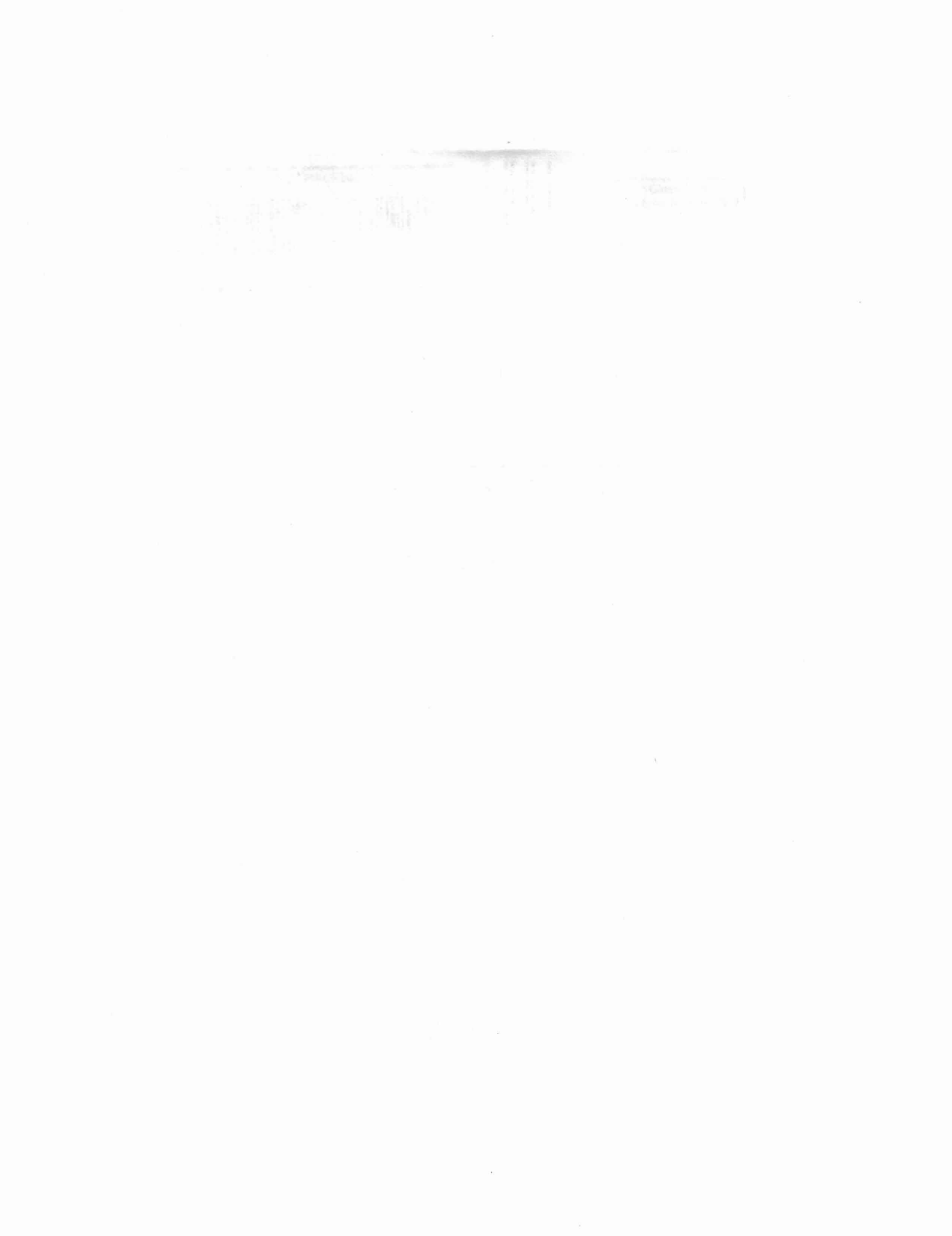


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<p>1. Article Addressed to:</p> <p>Mr. Randy Jansen President Peñuelas Valley Landfill, LLC P.O. Box 918, Punta Santiago Puerto Rico 00741-0918</p>		<p>B. Received by (Printed Name) </p> <p>C. Date of Delivery </p>	
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II, SUITE 7000
GUAYNABO, PUERTO RICO 00968-8069

030217

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Randy Jansen
President
Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago
Puerto Rico 00741-0918

Re: Administrative Compliance Order
Peñuelas Valley Landfill, LLC./E.C. Waste, LLC.
Docket Number CWA-02-2017-3103
NPDES Tracking Number PRR053203

Dear Mr. Jansen:

The United States Environmental Protection Agency (EPA), Region 2, has made findings that the Peñuelas Valley Landfill, LLC./E.C. Waste, LLC. ("PVL/ECW") is in violation of the Clean Water Act (the "Act"), 33 U.S.C. §1251 et seq. Enclosed are two (2) originals of the Administrative Compliance Order (ORDER) Docket Number CWA-02-2017-3103, issued to PVL/ECW pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a), which details EPA's findings of violation.

Please acknowledge receipt of the Order on one of the originals and return it by mail. Failure to comply with the enclosed ORDER may subject PVL/ECW to civil and/or criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER may also subject PVL/ECW to ineligibility for participation in work associated with Federal contracts, grants, or loans.

If you have any questions regarding this matter, please contact Mr. Jaime Lopez, of the Multimedia Permits and Compliance Branch, Clean Water Act Team, at (787) 977-5851.

Sincerely,

A handwritten signature in blue ink, appearing to read "C/RP", is located below the "Sincerely," text.

Carmen R. Guerrero-Perez
Director
Caribbean Environmental
Protection Division

Enclosures

cc: Angel Meléndez, EQB (w/ Order)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

PEÑUELAS VALLEY LANDFILL, LLC.

P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

E.C. WASTE, LLC.

P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

Facility Name

Peñuelas Valley Landfill
Road PR-385, Km .4.5, Tallaboa Ward
Peñuelas, Puerto Rico
NPDES Tracking Number PRR053203

RESPONDENT

Proceeding pursuant to Sections 308(a) and 309(a) of
the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1319(a)

**ADMINISTRATIVE
COMPLIANCE ORDER AND
INFORMATION REQUEST**

**DOCKET NUMBER
CWA-02-2017-3103**

I. PRELIMINARY STATEMENT

1. This Administrative Compliance Order and Information Request (together the "Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Sections 308(a) and 309(a) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. §§ 1318(a) and 1319(a).
2. The Administrator has delegated the authority to take these actions to the Regional Administrator of Region 2, who in turn, has delegated such authority to the Director of the Caribbean Environmental Protection Division.

II. STATUTORY AND REGULATORY AUTHORITIES

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that "[e]xcept as in compliance with [CWA Section 402], the discharge of any pollutant by any person shall be unlawful."

4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System ("NPDES") as the national program for, among other things, issuing and enforcing discharge permits.
5. Section 402 of the CWA authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.
6. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that "the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant upon condition that such discharge will meet such requirements as the Administrator determines are necessary to carry out the provisions of the [CWA]."
7. Pursuant to the CWA, EPA promulgated regulations known as "EPA Administered Permit Programs: the National Pollutant Discharge Elimination System," which was codified at 40 C.F.R. Part 122, as amended.
8. Pursuant to the NPDES regulations at 40 C.F.R. § 122.1(b)(1), the NPDES Permit Program requires permits for the discharge of any pollutant from any point source into waters of the United States.
9. Pursuant to 40 C.F.R. § 122.21(a)(1), any person who discharges or proposes to discharge pollutants, and who does not have an effective permit, must submit a complete NPDES permit application to EPA.
10. Pursuant to 40 C.F.R. § 122.21(a)(2)(i), all applicants for EPA-issued NPDES permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there.
11. Pursuant to 40 C.F.R. § 122.21(d)(2), permittees with currently effective permits shall submit a new application one hundred eighty (180) days before the existing permit expires, except that the Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.
12. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to stormwater discharges associated with industrial activity.
13. Pursuant to the CWA, EPA promulgated NPDES regulations defining the term "stormwater associated with industrial activity." 40 C.F.R. § 122.26(b).
14. Pursuant to the NPDES regulations at 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), certain facility operators are required to obtain an NPDES permit for stormwater discharges associated with industrial activity.

15. Pursuant to 40 C.F.R. § 122.26(b)(14)(v), landfills, land application sites, and open dumps that receive or have received any industrial waste including those that are subject to the regulation under subtitle D of the Resource Conservation and Recovery Act were included in the definition of stormwater associated with industrial activity.
16. The CWA and its implementing NPDES regulations contain the following definitions:
- a. "Administrator" means the Administrator of EPA, or an authorized representative. 40 C.F.R. § 122.2;
 - b. "Best Management Practices" or "BMPs" mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. 40 C.F.R. § 122.2;
 - c. "discharge of a pollutant" means any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2;
 - d. "facility" means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 C.F.R. § 122.2;
 - e. "industrial activity" means the eleven categories of industrial activities included in the definition of "stormwater discharges associated with industrial activity" as defined in 40 C.F.R. §§ 122.26(b)(14)(i)-(xi);
 - f. "navigable waters" means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7);
 - g. "owner" or "operator" means the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 C.F.R. § 122.2;
 - h. "permit" means an authorization, license, or equivalent control document issued by EPA or an "approved State" to implement the requirements of 40 C.F.R. Parts 122, 123 and 124. The term "permit" does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit." 40 C.F.R. § 122.2;
 - i. "person" means an individual, corporation, partnership or association. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2;

- j. "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2;
 - k. "pollutant" includes solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2;
 - l. "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles. Section 502(8) of the CWA, 33 U.S.C. § 1362(6);
 - m. "site" means the land or water area where any "facility" or "activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. 40 C.F.R. § 122.2;
 - n. "stormwater associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. 40 C.F.R. §§ 122.2 and 122.26(b)(14); and
 - o. "waters of the United States" means all waters such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, among others, and their tributaries. 40 C.F.R. § 122.2.
17. The following definitions and "terms" apply in this Order:
- a. "Non-structural BMP" means best management practices that generally consist of processes, prohibitions, procedures, and schedules of activities that prevent pollutants associated with industrial activity from contacting with stormwater discharges and authorized non-stormwater discharges. They are considered low technology, cost-effective measures, and do not involve construction and installation, and usually work by changing behavior, persuasion and/or economic instruments;
 - b. "Standard Operating Procedure(s)" or "SOP(s)" means the established or prescribed method(s) to be followed routinely for the performance of designated environmental compliance activities, operations, or in designated situations; and

- c. "Structural BMP" means the fixed, permanent physical structures and equipment requiring planning, design construction and maintenance that are designed to remove pollutants from stormwater runoff, reduce downstream erosion, provide flood control and promote groundwater recharge.
18. On October 30, 2000, EPA reissued the NPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activities (the "2000 MSGP") pursuant to Section 402(p) of the Act, 33 U.S.C. § 1342(p). The 2000 MSGP became effective on October 30, 2000 and expired on October 30, 2005.
19. On September 29, 2008, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP"). The 2008 MSGP became effective on September 29, 2008, and expired on September 29, 2013.
20. The 2000 MSGP and the 2008 MSGP established among others, Notice of Intent ("NOI") filing requirements to obtain permit coverage, development and implementation of a Stormwater Pollution Prevention Plan ("SWPPP"), monitoring, reporting, and other special and general conditions. Particularly, the 2000 MSGP and the 2008 MSGP included special conditions and requirements applicable to landfills in Part 6.L and Part 8, Subpart L, respectively.
21. Coverage under the 2000 MSGP and 2008 MSGP were administratively extended for those operators who obtained coverage prior their expiration dates of October 30, 2005 and September 29, 2013, respectively, until such time reissuance of the permit occurred, at which time the permittee must comply with the NOI filing conditions of the issued new permit to maintain authorization to discharge stormwater associated with industrial activities.
22. Part B.1 (Duty to Comply) of the 2008 MSGP required the permittee to comply with all conditions of the 2008 MSGP. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
23. Part B.2 (Duty to Reapply) of the 2008 MSGP indicated that if the permittee wished to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain authorization as required by the new permit once issued by EPA.
24. On June 4, 2015, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2015 MSGP"), as authorized under Section 402(p) of the CWA, 33 U.S.C. § 1342(p). The 2015 MSGP became effective on June 4, 2015 and will expire on June 4, 2020.

25. The 2015 MSGP also established NOI filing requirements, development and implementation of a SWPPP, inspections, monitoring, reporting, recordkeeping and other special and general conditions.
26. Part 1.2. of the 2015 MSGP establishes the eligibility and NOI filing requirements for operators of industrial activities covered under the 2015 MSGP. Specifically, Table 1-2 of Part 1.2.1.3 of the 2015 MSGP required operators of industrial activities that were authorized for coverage under the 2008 MSGP, to file an electronic NOI no later than September 2, 2015. Upon submittal of the electronic NOI, the 2015 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
27. Additionally, Part 1.2.1 and Part 5 of the 2015 MSGP required operators of industrial activities covered under a previous version of the permit [2008 MSGP] to update the existing SWPPP to include all provision included in the permit prior to submitting the electronic NOI for coverage under the 2015 MSGP.
28. Upon the electronic NOI submittal, the discharge authorization under the 2015 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
29. Appendix A of the 2015 MSGP contains the following definitions:
 - a. "measurable storm event" means a precipitation event that results in a measurable amount of precipitation (i.e., a storm event that results in an actual discharge) and that follows the preceding storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events;
 - b. "non-stormwater discharges" means discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, pavement wash water, external building wash-down, irrigation water, or uncontaminated ground water or spring water;
 - c. "operator" means any entity with a stormwater discharge associated with industrial activity that meets either of the following two (2) criteria:
 - (1) the entity has operational control over industrial activities, including the ability to modify those activities; or

- (2) the entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit);
 - d. "qualified personnel" means those individuals who are knowledgeable in the principles and practices of industrial stormwater controls and pollution prevention, and who possess the education and ability to assess conditions at the industrial facility that could impact stormwater quality, and the education and ability to assess the effectiveness of stormwater controls selected and installed to meet the requirements of the permit;
 - e. "significant materials" include, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges; and
 - f. "storm event" means a precipitation event that results in a measurable amount of precipitation.
30. Among others, the 2015 MSGP established the following requirements:
- a. eligibility (Part 1);
 - b. compliance measures and effluent limits (Part 2), which require the selection, design, and construction/implementation of control measures, such as non-structural and structural BMPs, to meet the non-numeric effluent limits. The selection, design, installation, and implementation of the control measures must be in accordance with good engineering practices and manufacturer's specifications;
 - c. inspections (Part 3);
 - d. corrective actions (Part 4);
 - e. SWPPP in accordance with good engineering practices and industry standards (Part 5);
 - f. monitoring (Part 6);
 - g. reporting and record-keeping (Part 7);

- h. sector-specific requirements (Part 8); and
 - i. special and general conditions.
31. Pursuant to Part 6.2.2.3 of the 2015 MSGP, if any monitoring value exceeds a numeric effluent limitation, the following actions must be taken by the permittee:
- a. report such exceedance on a "Change NOI" form in the NPDES eReporting Tool (NeT); and
 - b. conduct follow-up monitoring within thirty (30) calendar days (or during the next qualifying runoff event, should none occur within thirty (30) days) of implementing corrective action(s) taken per Part 4 of the 2015 MSGP.
32. Pursuant to Part 6.2.2.3 of the 2015 MSGP, when the follow-up monitoring referenced in paragraph 31.b above, results in an exceedance of an applicable effluent limitation, the permittee must:
- a. submit to EPA an exceedance report no later than thirty (30) days after the receipt of the laboratory result consistent with Part 7.6 of the 2015 MSGP (ie. submit the exceedance report to the appropriate EPA Regional Office listed in Part 7.9.1 of the 2015 MSGP, and report the monitoring data through NetDMR); and
 - b. continue to monitor, at least quarterly, until the discharge is in compliance with the effluent limit or until EPA waives the requirement for additional monitoring, and once back in compliance with the effluent limitation indicate such fact on a "Change NOI" form pursuant to Part 7.4 of the 2015 MSGP.
33. Section 308(a)(A) of the CWA, 33 U.S.C. § 1318(a)(A), provides that "[w]henever required to carry out the objective of . . . [CWA Section 402], the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as [the Administrator] may reasonably require."
34. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that "[w]henever on the basis of any information available . . . the Administrator finds that any person is in violation of [CWA Sections 301 and 308], or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under [Section 402 of the Act, the Administrator] shall issue an Order requiring such person to comply with such section...."

35. Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), provides that “[a]ny Order issued under [CWA Section 309] shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance . . . taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.”
36. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the federal NPDES program. EPA maintains enforcement authority for violations of the CWA and its implementing regulations.

III. JURISDICTIONAL STATEMENTS

37. Peñuelas Valley Landfill, LLC. (“Respondent PVL”) is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent is registered in the Puerto Rico Department of State under registration number 4,229.
38. E.C. WASTE, LLC. (“Respondent ECW”) is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent is registered in the Puerto Rico Department of State under registration number 4,230.
39. Hereinafter, Respondent PVL and Respondent ECW, are collectively referred to as “Respondents”.
40. Respondents’ principal office is located at Road 3, Int. PR-923, Km 1.7, Buena Vista Ward, Humacao, Puerto Rico 00718.
41. Respondents are a “person” pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
42. Respondents are the current owners and/or operators of a landfill facility, known as Peñuelas Valley Landfill (“PVL” or “Landfill”). The PVL is located at Road PR-385, Km .4.5, Tallaboa Ward, Peñuelas, Puerto Rico.
43. At all relevant times to this Order, Respondents were the owners/operators of the Landfill.
44. Respondents’ activities at the Landfill mainly consist of the management and disposal of industrial wastewater, industrial/commercial waste and sludge from the Puerto Rico Aqueduct and Sewer Authority (“PRASA”) treatment facilities. These operations at the Landfill are best described by the Standard Industrial Classification (“SIC”) Code 4953 (refuse system, landfills).
45. Stormwater runoff containing “pollutants” associated with industrial activities conducted at the Landfill is collected in concrete line culverts and ditches that discharge directly into an unnamed creek. This unnamed creek flows along the east and south sides of the Landfill premises, which in turn flows into the Tallaboa

Industrial Channel, a tributary of the Tallaboa River. The Tallaboa River discharges into the Caribbean Sea, a territorial sea and water of the United States.

46. The Landfill is a "facility" as defined in 40 C.F.R. § 122.2.
47. The Landfill is a "point source" pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
48. The unnamed creek, the Tallaboa Industrial Channel, the Tallaboa River, and the Caribbean Sea are waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
49. Respondents are subject to the provisions of the CWA, 33 U.S.C. § 1251, et seq., and the applicable NPDES permit application regulations found at 40 C.F.R. § 122.

IV. FINDINGS OF VIOLATIONS

50. On August 9, 2016, an EPA official reviewed several EPA's enforcement and compliance databases to determine Respondents' compliance with Act and the NPDES stormwater permit application regulations (the "Record Review").
51. The Record Review revealed that:
 - a. on January 29, 2001, Respondent PVL submitted an electronic NOI form to EPA to seek coverage under the 2000 MSGP obtaining coverage effective February 28, 2001 under NPDES tracking number PRR05A898;
 - b. on January 2, 2009, Respondent PVL submitted an electronic NOI form to EPA to seek coverage under the 2008 MSGP obtaining coverage effective February 1, 2009 under NPDES tracking number PRR05BK78;
 - c. on October 5, 2015, Respondent ECW submitted an electronic NOI to EPA seeking coverage for the Landfill under the 2015 MSGP obtaining coverage effective November 4, 2015, under permit tracking number PRR053203; and
 - d. as part of the electronic NOI submittal seeking coverage for the Landfill under the 2015 MSGP, Respondent ECW provided an internet address¹ to make certain information of the August 2015 SWPPP available to the public.
52. On August 10, 2016, an EPA official conducted a Compliance Evaluation Inspection ("Inspection") of the Landfill. The purpose of the Inspection was to evaluate Respondent's compliance with the Act, the NPDES stormwater permit regulations and the 2015 MSGP.

¹ The SWPPP can be found at the following URL address: https://ecwaste1-public.sharepoint.com/SiteAssets/Penuelas_Valley_Landfill_SWPPP_MSGP2015.pdf.

53. During the Inspection, the EPA official conducted a walkthrough of the Landfill. Also, the EPA official performed a review of the SWPPP prepared for the Landfill.
54. The findings of the Inspection were summarized in the NPDES Water Compliance Inspection Report ("Inspection Report"), dated December 14, 2016. See **Attachment 1** of this Order for a copy of the Inspection Report.
55. The walkthrough the Landfill revealed, among other things, the following:
 - a. the structural BMPs, such as the stormwater retention pond, were not effective in removing sediments from stormwater runoff to minimize pollutants in the discharge as required by Part 2.1 of the 2015 MSGP; and
 - b. closed cells slopes, roads and earthen ditches of the stormwater collection system were not efficient in controlling erosion and sediment resulting from stormwater runoffs to minimize the discharge of pollutants as required by Part 2.1.2 of the 2015 MSGP.
56. During the Inspection EPA performed a review of the August 2015 SWPPP. EPA noticed that corrective actions were not documented in the SWPPP as required in Part 4 of the 2015 MSGP.
57. On November 29, 2016, EPA received from Respondent a copy of the laboratory report of a stormwater runoff sampling event performed on October 18, 2017 ("Effluent Limitation Sampling Report").
58. The result reported in the Effluent Limitation Sampling Report for Total Suspended Solids ("TSS") was 1,510 mg/L, which exceeded the effluent limitation of 88 mg/L established in Part 8.L.10 of the 2015 MSGP for TSS.
59. Respondents' permit conditions violations stated above constitute a violation of Section 301(a) of the Act and the applicable NPDES regulations.
60. Pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA has enforcement authority to issue this Order to address Respondents' violations of the conditions of the 2015 MSGP permit, issued under Section 402(p) of the Act.

V. ORDERED PROVISIONS

In consideration of the Findings of Violations, above, and pursuant to the authority in Section 309(a) of the CWA, 33 U.S.C. § 1319(a), EPA has determined that compliance with the following requirements is reasonable.

IT IS HEREBY ORDERED:

61. **Within three (3) calendar days upon receipt of the originals of this Order**, an authorized representative of Respondents shall complete and submit the acknowledgment of receipt on one of the originals of the Order to EPA.
62. **Within fifteen (15) calendar days of receipt of this Order**, Respondents shall amend the electronic NOI submitted by Respondent ECW pursuant to the requirements in Parts 1 and 7 of the 2015 MSGP to reflect the current operator(s) of the Landfill. Respondents shall also submit within this timeframe, a written communication to EPA certifying its submission of a complete and accurate amended electronic NOI.
63. **Within thirty (30) days of receipt of this Order**, Respondents shall prepare and submit a Work Plan, for EPA's review and approval, to achieve compliance with the 2015 MSGP. The Work Plan shall describe the specific tasks to be performed, including a schedule with the expected completion date of each task. All activities included in the Work Plan shall be completed within hundred and twenty (120) calendar days from the receipt date of this Order and shall contemplate dates for the Monthly Progress Reports submittal, as indicated in paragraph 64 below.

The Work Plan shall address the findings in the inspection report, and, at a minimum, include the following:

- a. a description of the planned improvements, and maintenance and/or replacement of the existing BMPs, as required in Parts 2 and 5 of the 2015 MSGP;
- b. revision of the SWPPP dated August 2015, to comply with the requirements of Parts 4 and 5 of the 2015 MSGP;
- c. implementation of corrective actions pursuant to Part 4 of the 2015 MSGP in order to comply with the effluent limitation for TSS through outfall 001 established in Part 8.L.10 of the 2015 MSGP;
- d. monitoring of TSS at outfall 001, as required in Part 6.2.2 of the 2015 MSGP;
- e. preparation and implementation of a rainfall data collection, management, and record-keeping Standard Operating Procedure at the Landfill;
- f. preparation and implementation of a stormwater sampling Standard Operating Procedure at the Landfill;
- g. fixed-date schedules for the implementation of BMPs to achieve compliance, as required in Parts 2 and 5.2.5 of the 2015 MSGP; and

- h. estimated costs of achieving compliance, including capital costs of the proposed BMPs, including the operations and maintenance ("O&M") costs associated with any future plan developed as part of the Work Plan. The estimated cost shall include, at a minimum, but not limited to, monitoring equipment, labor, and laboratory analysis cost, training of personnel, etc., which will be required to implement the plan and correct the findings of violations.

Respondents shall immediately implement the approved Work Plan according to the milestones and schedules included therein, which will become an enforceable provision of this Order.

- 64. Respondents shall prepare and submit Monthly Progress Reports (on the 15th day of the month). The first monthly report shall be submitted on April 15, 2017 and every 30 days thereafter, until this Order is no longer effective or until full compliance with this Order has been achieved and EPA notifies Respondent that submissions are no longer required. The Monthly Progress Report shall include:
 - a. the specific activities undertaken to bring the Landfill into compliance with the Act, the applicable NPDES regulations and the 2015 MSGP, as provided for in the Work Plan in paragraph 63, above;
 - b. the status of the implementation of the Work Plan developed pursuant to paragraph 63, above;
 - c. description of any impediment Respondent encountered in the process to comply with the Ordered Provisions included in this Order and the steps taken to minimize any setbacks in the completion of any activity required as part of this Order; and
 - d. a cost report detailing the expenses incurred, as of the date of the Monthly Progress Reports concerning the milestones and activities performed towards meeting the Provisions of this Order.

VI. REQUESTED INFORMATION

Based on the Findings of Violations, above, and pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), Respondents are required to submit the following to EPA in writing.

- 65. **Within twenty (20) calendar days of receipt of this Order**, Respondents shall submit documentation of the actions taken, pursuant to Part 6.2.2.3 of the 2015 MSGP, after exceeding the effluent limitation for TSS on the sampling performed on October 18, 2016. The information provided shall, at a minimum, include the following:

- a. evidence that Respondents reported the TSS exceedance on a "Change NOI" form in the NPDES eReporting Tool (NeT);
- b. evidence that Respondents conducted a follow-up monitoring within thirty (30) calendar days after exceeding the effluent limitation for TSS (or during the next qualifying runoff event, should none occur within thirty (30) days) of implementing corrective action(s); and
- c. evidence that Respondents reported the results of the follow-up monitoring referenced in paragraph 65.b above, on a "Change NOI".

VII. GENERAL PROVISIONS

- 66. Any questions concerning this Order should be directed to Jaime López, Senior Enforcement Officer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at (787) 977-5851 / lopez.jaime@epa.gov.
- 67. Any documents to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent, and shall be signed by an authorized representative (see 40 C.F.R. § 122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- 68. All information required to be submitted under this Order shall be sent by certified mail (or its equivalent) to the following contacts and their addresses:

Director, Water Quality Area
Environmental Quality Board
P. O. Box 11488
San Juan, Puerto Rico 00910;

and

Team Leader, Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
48 RD. 165 Km. 1.2
Guaynabo, PR 00968-8069.

69. Respondent shall have the opportunity, for a period of twenty (20) days from the effective date of this Order, to confer, regarding the requested information and the Ordered Provisions, with the following designated Agency representative: Jaime López, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division located at City View Plaza II – Suite 7000, 48 RD 165, Km 1.2, Guaynabo, Puerto Rico, with phone number (787) 977-5851, and email lopez.jaime@epa.gov.
70. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.
71. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the NPDES implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
72. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in Respondent's liability for civil penalties for each violation of up to \$52,414 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of this Order.
73. Notice is hereby given that failure to comply with the requirements of the CWA Section 308 Information Request may result in Respondent's liability for civil penalties for each violation of up to \$52,414 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has failed to comply with the terms of the Information Request. Respondent may also be subject to administrative remedies for a failure to comply with the Information Request as provided by Section 309 of the CWA, 33 U.S.C. § 1319.

74. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
75. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: MARCH 1, 2017

Signed: _____

CARMEN R. GUERRERO-PÉREZ

Director

Caribbean Environmental Protection Division

Attachment 1 – August 10, 2016 Compliance Inspection Report

cc: Director, Water Quality Area
Puerto Rico Environmental Quality Board

ATTACHMENT 1

August 10, 2016

Water Compliance Inspection Report



United States Environmental Protection Agency
Washington, D.C. 20460
Water Compliance Inspection Report

Form Approved.
OMB No. 2040-0057
Approval expires 8-31-98

Section A: National Data System Coding (i.e., PCS)

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 N 2 5 3	PRR053203	11 12 16/08/10 17	18 C	19 R	20 2
Remarks					
2 M S G P 2 0 1 5					
Inspection Work Days	Facility Self-Monitoring Evaluation Rating	B1	QA	Reserved	
6 1 0 69	70 2	71	7	73	74 7 80

Section B: Facility Data

Name and Location of Facility Inspected (for industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time/Date	Permit Effective Date
Penuelas Valley Landfill State Road PR-385, Km .4.5, Tallaboa Ward Penuelas, Puerto Rico 00624	8/10/16 10:00 am	06/04/15
	Exit Time/Date	Permit Expiration Date
	3/25/14 1:30 pm	06/04/20
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data	
Rene Rodriguez, EH&S, Manager	NPDES 2015 Multi Sector General Permit	
Name, Address of Responsible Official/Title/Phone and Fax Number(s)		
Mr. Randy Jansen President		
Contacted		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/> Permit	<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> CSO/SSO (Sewer Overflow)
<input checked="" type="checkbox"/> Records/Reports	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Sludge Handling/Disposal	<input checked="" type="checkbox"/> Pollution Prevention
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> Multimedia
<input checked="" type="checkbox"/> Effluent/Receiving Water	<input type="checkbox"/> Laboratory	<input checked="" type="checkbox"/> Storm Water	<input checked="" type="checkbox"/> Other: NOI

Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)

SEE SUPPLEMENT TO WATER COMPLIANCE INSPECTION REPORT FOR

Note from Reviewer: The NPDES number above is included, as it was the NPDES tracking number used to enter the inspection into the EPA database.

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Jaime Lopez, Senior Enforcement Officer	EPA/CEPD/MPCB (787) 977-5851	December 14, 2016
Signature of Management Q A Reviewer	Agency/Office/Phone and Fax Numbers	Date
Nancy Rodriguez, Chief	EPA/CEPD/MPCB (787) 977-5887	12/15/16

Peñuelas Valley Landfill

State Road PR-385, Km .4.5, Tallaboa Ward
Peñuelas, Puerto Rico 00624
Coordinates: Latitude 18.0123; Longitude 66.7011 NAD27

Owner/Operator – Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago, Puerto Rico 00741-0918
Telephone Number: (787) 790-5080

2012 MSGP Tracking Number PRR053203

1. INTRODUCTION

- a. This Supplement to the Water Compliance Inspection Report Form is prepared to include all findings and observations concerning the Compliance Evaluation Inspection (Inspection) conducted by senior enforcement officer, Jaime López (EPA Inspector), of the United States Environmental Protection Agency's (EPA) Caribbean Environmental Protection Division, at the Peñuelas Valley Landfill, LLC's (PVL) landfill located in Peñuelas, Puerto Rico ("Landfill" or "Facility"). The Inspection was conducted on Tuesday, August 10, 2016.
- b. Upon showing of credentials to the Landfill environmental protection, health and safety manager, Engineer René Rodríguez, the Inspection subject to this Report was performed under the authority in Section 308(a) of the Federal Water Pollution Control Act (CWA), as amended.
- c. The purpose of the Inspection was to determine PVL's compliance with Sections 301(a), 308(a), and 402(p) of the CWA, the National Pollutant Discharge Elimination System (NPDES) storm water permit application regulations codified in 40 C.F.R. §§ 122.21, 122.26 and 122.28, and the "2015 Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activities" (2015 MSGP). Also, the Inspection served to verify how the coal combustion residuals ("ash" or "CCR") coming from the industrial process at AES Puerto Rico, L.P.'s (AES) coal-fired power plant were being disposed at the Landfill, and to evaluate the pollution prevention activities and best management practices to address the stormwater runoff that comes in contact with the ash disposal areas at the Landfill.

2. GENERAL INFORMATION

- a. Date of Inspection – Tuesday, August 10, 2016.
- b. Time of Inspection – The Inspection began approximately at 10:00 a.m. and ended approximately at 1:30 p.m.

- c. Weather – Dry weather and sunny skies prevailed during the Inspection.
- d. Facility's Representative – René Rodríguez, Environmental Protection, Health and Safety Manager; Telephone Number (787) 447-2717.
- e. EPA's Representatives – Jaime López; Telephone Number (787) 977-5851 and Andrés Febres; Telephone Number 787-977-5801; e-mail: lopez.jaime@epa.gov.

3. **PRIOR HISTORY OF ENFORCEMENT AND INSPECTION ACTIVITIES**

A review of EPA databases and files revealed that this is the first EPA inspection performed at the landfill under section 308(a) of the Act.

4. **WITH RESPECT TO PEÑUELAS VALLEY LANDFILL, LLC**

- a. On January, 1997, a company named Peñuelas Valley Landfill, Inc. was registered in the Commonwealth of Puerto Rico Department of State (DOS) under registration number 96,457. On May 23, 2014, Peñuelas Valley Landfill, Inc. changed its name to Peñuelas Valley Landfill, LLC, and DOS issued the registration number 4,229 for this transaction. **Figure 1** shows the information about PVL found at the official DOS web site (www.estado.gobierno.pr).

Figure 1

The screenshot shows the official website of the Commonwealth of Puerto Rico Department of State (DOS) for the 'Registro de Corporaciones y Entidades'. The page has a dark blue header with the title 'Registro de Corporaciones y Entidades'. Below the header, there is a sidebar on the left with various links such as 'Buscar', 'Inscribir / Autorizar', 'Renovar', 'Disolver / Retirar', 'Convertir', 'Fusionar / Consolidar', 'Restaurar', and 'Reserva de Nombre'. The main content area is titled 'Búsqueda de Corporaciones' and contains a search form. The search criteria are set to 'Búsqueda Básica', 'Número Registro', and 'Singular'. The search results show 'Peñuelas Valley Landfill, LLC' with a registration number of 4,229. The results are displayed in a table with columns for 'Registro', 'Nombre Corporación', 'Clase', 'Tipo', and 'Status'.

Registro	Nombre Corporación	Clase	Tipo	Status
4,229	Peñuelas Valley Landfill, LLC			Activa

- b. PVL is the owner and operator of the Facility.

- c. PVL meets the definition of a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

5. **WITH RESPECT TO E. C. WASTE, LLC**

- a. E. C. Waste, Inc. was a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico, and DOS issued a registration number 91,350 to that entity. On May 23, 2014, E. C. Waste, Inc. changed its name to E.C. Waste, LLC (ECW), and DOS issued the registration number 4,230 to this new entity.^{1,2} Figure 2 shows the information about ECW found at the official DOS web site.

Figure 2

The screenshot shows the official website of the Department of Economic Development and Commerce (DEDC) of Puerto Rico, specifically the 'Registro de Corporaciones y Entidades' (Corporation and Entity Registry). The page has a header with the Puerto Rico coat of arms and navigation links. A left sidebar contains various service links like 'Buscar', 'Inscribir / Autorizar', 'Renovar', etc. The main content area is titled 'Búsqueda de Corporaciones' and includes search criteria fields for 'Número Registro' and 'Nombre Corporación'. The search results section, titled 'Resultados de la Búsqueda de Corporación', displays a table with one entry for 'E.C. WASTE, LLC' with registration number 4230. The table has columns for 'Registro', 'Nombre Corporación', 'Clase', 'Tipo', and 'Fecha'.

Registro	Nombre Corporación	Clase	Tipo	Fecha
4230	E.C. WASTE, LLC	Corp. Resp. Limitada	Con Pres.	14/12/2016

- b. ECW meets the definition of a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
- c. ECW's main office is located at Road PR-923, Km 4.5, Buena Vista, Humacao, Puerto Rico 00718.

6. **BUSINESS RELATIONSHIP BETWEEN PVL AND ECW**

Based on information gathered during the Inspection and further review of

¹ Puerto Rico Waste Holdings, LLC is the parent company of PVL and ECW.

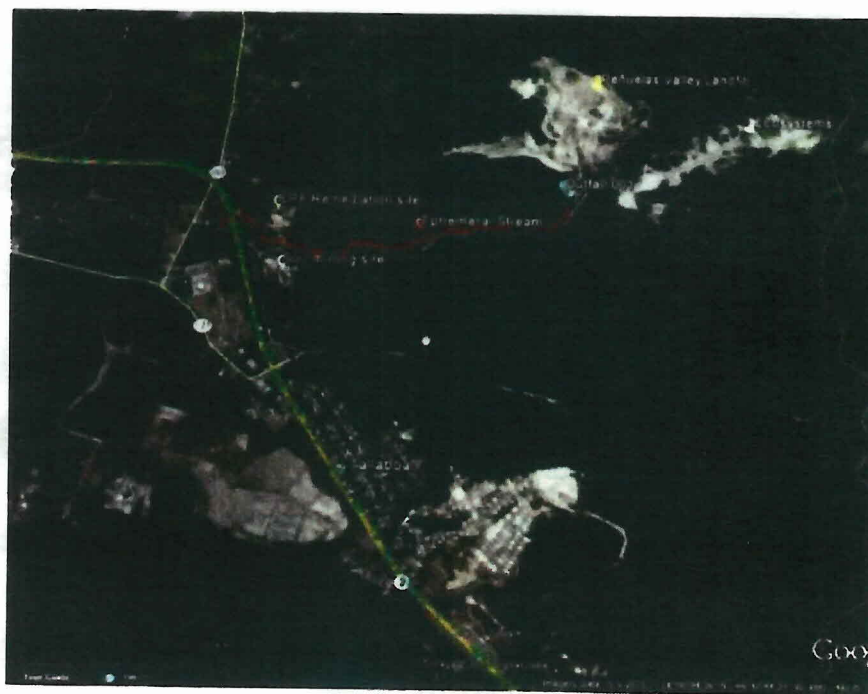
² The President of Puerto Rico Waste Holdings, LLC, PVL and ECW is Mr. Randy Jensen. He can be reached at (787) 790-5080 and (787) 852-4444.

additional information available to EPA, PVL is the day to day operator of the Landfill. ECW is a company that primarily collects and transport waste from the source into the Landfill, and it is not the owner and operator of the Landfill.³

7. DESCRIPTION OF THE FACILITY

- a. Since on or about 1999, the operations at the Landfill includes the management and disposal of industrial wastewater, industrial/commercial waste and sludge from the Puerto Rico Aqueduct and Sewer Authority (PRASA) treatment facilities.⁴ PVL's Facility is best described by the primary Standard Industrial Classification (SIC) code 4953. The estimated impacted area of the Landfill at the time of the inspection was approximately 29 acres of the 163 acres of Landfill property;
- b. **Picture 1** depicts the location of the Landfill (Source: Google Earth GIS Application at http://gis.otg.pr.gov/apps/pr_map/). The Landfill meets the definition of a "facility" pursuant to 40 C.F.R. § 122.2.

Picture 1



³ See Appendix A of the 2015 MSGP for the definition of "operator." Operator means any entity with a stormwater discharge associated with industrial activity that meets either of the following two criteria: the entity has operational control over industrial activities, including the ability to make modifications to those activities; or the entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit).

⁴ PVL operates the Landfill under permit number IDF-57-0020, which was issued by the Environmental Quality Board on January 15, 2014. The permit expires on January 15, 2019.

- c. The daily industrial and commercial waste managed at the Landfill is estimated at 200-300 tons. Also, the Landfill could manage 300-400 tons per day of fly-ash and bottom-ash originated from AES. In regards to the referenced ashes, the Landfill is capable of receiving and managing approximately from 4-5 daily trucks of fly-ash and from 2-3 daily trucks of bottom-ash, which are transported in 18 to 27 cubic meters' capacity steel enclosed cargo trucks or dry power encapsulated trucks. The industrial and commercial waste are deposited in layers at the designated shooting areas and are conditioned and maintained for the stabilization of side slopes and expansion of the sequenced areas. Then, the commercial and industrial waste are covered with solidified materials.
- d. The storm water runoff from the Landfill is collected in concrete line culverts and ditches that flows directly into an unnamed creek, which is a tributary of the Tallaboa River. This unnamed creek flows along the east and south sides of the Landfill premises, which in turn discharges into the Tallaboa Industrial Channel, which is a tributary of Tallaboa River. The Tallaboa River discharges into the Caribbean Sea, a navigable water of the United States. **Picture 2** depicts the watersheds nearby the Landfill, which includes the unnamed creek referenced above (Source: Puerto Rico Planning Board GIS Application at http://gis.otg.pr.gov/apps/pr_map/).

Picture 2



8. **APPLICABLE NPDES REGULATIONS AND PERMIT COVERAGE**

Regulations

- a. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to storm water discharges associated with industrial activity.
- b. The Administrator of EPA has promulgated regulations, 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), which require that an NPDES permit shall be obtained for storm water discharges associated with industrial activity. The Landfill is covered by the NPDES application regulation for storm water discharges at 40 C.F.R. § 122.26(b)(14)(v).⁵
- c. The EPA regulations at 40 C.F.R. § 122.26(e)(1)(i) require that operators of industrial facilities regulated under 40 C.F.R. § 122.26(a)(1)(ii) obtain and shall submit an individual NPDES permit application no later than October 1, 1992, if the facility is not part of a group application (as described in 40 C.F.R. § 122.26(c)(2)), or is not authorized by an NPDES storm water general permit for industrial activities.

Permit Coverage

- d. On October 30, 2000, EPA reissued the NPDES Storm Water Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (2000 MSGP) pursuant to Section 402(p) of the Act, 33 U.S.C. §1342(p). The 2000 MSGP became effective on October 30, 2000 and expired on October 30, 2005.
- e. The 2000 MSGP established among others, Notice of Intent (NOI), Storm Water Pollution Prevention Plans (SWPPP), monitoring, reporting, and other conditions. Particularly, Part 11.L of the MSGP included special conditions and requirements applicable to landfills.
- f. The 2000 MSGP required facilities to seek coverage by submitting a complete and accurate NOI in accordance with the requirements of Part 2, in order to obtain authorization to discharge storm water associated with industrial activity.
- g. On August 9, 2016, the EPA Inspector reviewed the EPA Storm Water NOI Processing Center database, and found that on January 29, 2001, PVL submitted a NOI form to EPA to seek coverage under the 2000 MSGP. EPA granted 2000 MSGP's coverage to PVL on February 28, 2001, and

⁵ 40 C.F.R. § 122.26(b)(14)(v) includes landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of Resource Conservation and Recovery Act (RCRA).

assigned permit tracking number PRR05A898.

- h. On September 29, 2008, EPA re-issued the NPDES Storm Water Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (2008 MSGP). The 2008 MSGP became effective on September 29, 2008 and expired on September 29, 2013.
- i. The EPA Inspector also found in its August 9, 2016 review of the NOI Processing Center Database that PVL submitted a NOI to EPA, dated January 2, 2009, to seek coverage under the 2008 MSGP. EPA granted 2008 MSGP's coverage to PVL on February 1, 2009, and assigned permit tracking number PRR05BK78. **Figure 3** depicts the information found at the NOI Processing Center Database.

Figure 3

The screenshot shows a web-based search interface for the NOI Processing Center Database. It includes search filters for Name, City, State, County, and Zip. Below these is a section for Owner/Operator Information with fields for Name, City, State, and Zip, followed by a Search button. The results section, titled 'Filter Search Results', shows a table with two rows of data. The first row is for 'PENUELES VALLEY LANDFILL INC' with permit tracking number 'PRR05BK78' and expiration date '02/01/2009'. The second row is for 'PENUELES VALLEY LANDFILL INC' with permit tracking number 'PRR05BK78' and expiration date '02/01/2009'. The table has columns for Tracking Number, Submitted, Coverage, Operator Name, Project/Permitting Number, Location, City, State, and Status. The status for both rows is 'Expired'.

Tracking Number	Submitted	Coverage	Operator Name	Project/Permitting Number	Location	City	State	Status
PRR05BK78	01/29/2009	02/01/2009	PENUELES VALLEY LANDFILL INC	PENUELES VALLEY LANDFILL INC	-	PENUELES	PR	Expired
PRR05BK78	01/29/2009	02/01/2009	Penueles Valley Landfill Inc	Penueles Valley Landfill	Penueles	Penueles	PR	Expired

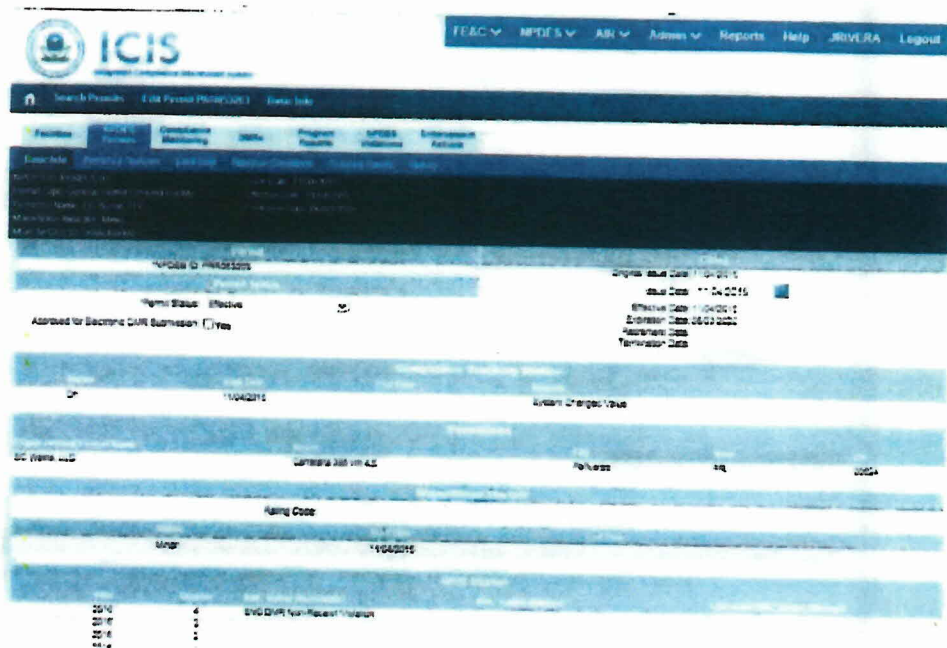
- j. On June 4, 2015, EPA re-issued the reissued the NPDES Storm Water Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (2015 MSGP). The 2015 MSGP became effective on June 4, 2015, and expires on June 4, 2020.
- k. On August 9, 2016, the EPA Inspector reviewed the NOI Processing Center Database, the Integrated Compliance Information System Database (ICIS) and the Enforcement and Compliance History Online (ECHO) database,

and found that:

- 1) On October 5, 2015, ECW submitted an electronic NOI to EPA for the Landfill to seek coverage under the 2015 MSGP;
- 2) EPA granted coverage to ECW beginning on November 4, 2015;
- 3) EPA assigned the permit tracking number PRR053203 to ECW for the Landfill; and
- 4) PVL did not file a NOI to seek coverage under the 2015 MSGP for the Landfill.

I. **Figure 4** depicts the information found at the ICIS database.

Figure 4



- m. The EPA Inspector found that the operator of the Landfill (PVL) at the time of the Inspection did not submit an NPDES permit application nor a NOI to seek coverage under the 2015 MSGP.

9. **ENTRY MEETING AND FACILITY'S WALKTHROUGH**

- a. The Inspection commenced with an entry meeting where representatives from EPA and the Landfill met to generally discuss matters related to NPDES permitting, facility conditions, Best Management Practices (BMP) implementation, monitoring, inspection protocols, and records.

- b. After the entry meeting, the EPA Inspector proceeded to conduct the Facility walkthrough. The EPA Inspector observed the following:
- 1) the structural BMPs to manage storm water runoff were not effective in removing sediments. In particular, the storm water retention pond design needs to be revised for adequate capacity and to increase the retention time for maximum efficiency.
 - 2) the facility needs to improve and implement the requirements for erosion and sediment control and runoff management according to Part 2.1.2.5 of the 2015 MSGP, specifically, at closed cells slopes, roads and earthen ditches of the storm water collection system;
 - 3) leachate was not observed at any part of the Landfill;
 - 4) ashes were not being deposited at the Landfill during the course of the walkthrough; and
 - 5) ashes were not observed in any area of the Landfill including the areas surrounding the retention pond and the storm water discharge point (outfall 001) into the unnamed creek.
- c. The EPA Inspector documented his observations during the course of the walkthrough using the camera Nikon Coolpix P350 S77499. **Attachment 1** includes the Inspection Photo-Documentation.

10. **REVIEW OF RECORDS AND EXIT MEETING**

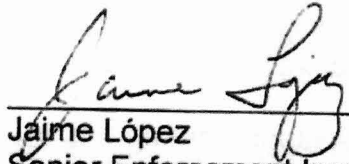
- a. Part 5 of the 2015 MSGP requires the development of a SWPPP for the facilities covered therein. On August 2015, ECW prepared a SWPPP for the Facility. A copy of the SWPPP was provided to the EPA Inspector.
- b. The EPA Inspector reviewed the SWPPP and found that the SWPPP did meet with the following conditions of the 2015 MSGP:
- 1) Corrective actions were not documented; and
 - 2) The SWPPP was not amended due to effluent limits exceedances, which constitutes changes in design, construction, operation, or maintenance at the facility, which had a significant effect on the discharge, or potential to discharge of pollutants from the Facility.
- c. On October 18, 2016, a sampling of a stormwater runoff event was conducted for the effluent limits applicable in Part 8.L of the 2015 MSGP. A review of the laboratory results revealed that the Total Suspended Solids (TSS) limit established in Part 2.1.3 and Part 8.L of the 2015 MSGP was

exceeded. **Attachment 2** includes a copy of the results.

- d. The operator of the landfill has failed to take corrective actions after a triggering condition which are required under Part 4 of the MSGP particularly corrective actions were not taken for the exceeded effluent limit of TSS.
- e. The Inspection ended with an exit meeting in which the EPA Inspector informed the Landfill's representative that the SWPPP needed to be revised to address the effluent limits exceedances at the storm water discharge point (outfall 001). The EPA Inspector also informed that additional BMPs were needed for sediment controls specifically, at closed cells slopes, access roads, and earthen ditches of the storm water collection system and runoff management at the sedimentation pond.

End of report

Prepared by:


Jaime López
Senior Enforcement Inspector
U.S. Environmental Protection Agency, Region 2

12/14/16
Date

Attachments

Picture # 1

Sediments accumulated
in the unnamed creek
under road bridge at
Facility access road
entrance.



Picture # 2
Facility entrance.



Picture # 3
Facility's equipment
maintenance and
storage area. Operations
conducted under roofed
building.



Picture # 4
Storm water
concrete-lined culvert
conveyance system.



08.10.2016 12:15



Picture # 5
Exposed soils without
soils stabilization within
one of the lined culvert
drainage slopes.

Picture # 6
New lined cell at
disposal area.



08.10.2016 12:20

Picture # 7
Earthen dike with loose
soils and without soils
stabilization.



Picture # 8
Sediment trap on storm
water collection system
located prior to
overflow..



Picture # 9
Sediment accumulation
on plastic-lined ditch.



Picture # 10
Industrial liquid waste
tank.



Picture # 11
Industrial solidification
chamber/pit



Picture # 12
Leachate retention pond.



Picture # 13
Panoramic view of the
Facility showing
semi-arid conditions.



Picture # 14
Unpaved access roads.



Picture # 15
Unstabilized slopes.



Picture # 16
Perforated level drain at
retention pond.



Picture # 17
Retention pond on low
level and high freeboard.



Picture # 18
View of sediment basin.



Picture # 19
Signage of outfall 001

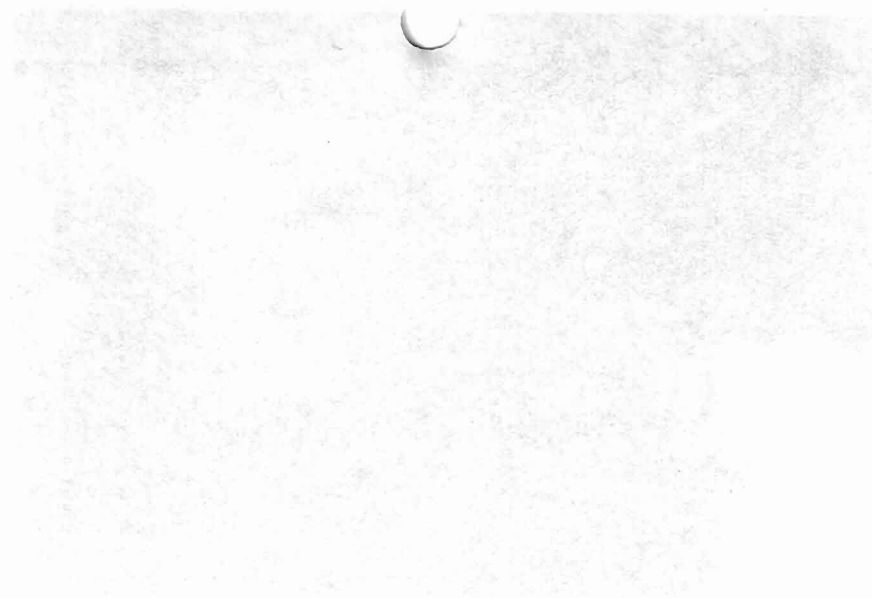


Picture # 20
Outfall 001 with stagnant
water and no discharge



Picture # 21
Complete view of
sediment basin showing
sedimentation at the
storm water intake





01/10/19

1

2



Attachment 2
October 18, 2016
Effluent Limits
Laboratory Analysis Results

REPORT OF ANALYSIS

Certificate Number: CERT - 16308

November 7, 2016

Customer Name:	EC WASTE			Custody Number:	85682		
Contact:	MARIA VIDAL			Sampled Date:	Tuesday, October 18, 2016		
Customer Address:	P O BOX 918			Sampled Time:	0755 hrs.		
	PUNTA SANTIAGO PR 00741-0918			Received Date:	Tuesday, October 18, 2016		
Phone/Fax:	787-836-3700			Received Time:	1530 hrs.		
Contact Email:	mvidal@ecwaste.com			Sample Matrix:	Liquid		
Sampled By:	Client			Sample Type:	Grab		
Sample Received By:	S. Aponte			Temp Rec at Lab:	4.0 °C		
Sample Delivered By:	N. Hernandez			Lab. Sample Number:	AT-16-9003		
Project and Sample Description:	Water Test Outfall 001 - Punto Monitoria						

Parameter	Units	Result	Method	Method Detection Limit	Analysis Date	Analysis Time	Analyst
Alpha Terpineol	mg/L	ND	EPA 625	---	November 2, 2016	2200	MG
Ammonia	---	<0.05	EPA 350.1	0.050	October 26, 2016	0940	EB
Benzoic Acid	mg/L	9.57	EPA 625	---	November 2, 2016	2200	MG
Biochemical Oxygen Demand	mg/L	77.5	SM 5210B	2.0	October 18, 2016	1758	JR
p-Cresol	mg/L	ND	EPA 625	---	November 2, 2016	2200	MG
pH	S.U.	7.45	SM 4500 H-B	0.10	October 18, 2016	1430	NH
Phenol	---	<0.005	EPA 420.4	0.0050	October 27, 2016	1626	EB
Total Suspended Solids	mg/L	1,510	SM 2540D	4.0	October 21, 2016	1226	JR

Page 1 of 2

CERTIFIED BY PUERTO RICO DEPARTMENT OF HEALTH FOR DRINKING WATER-CERTIFICATION NUMBER PR 00947
Test results in this report meet ISO 17025 requirements.
For ISO 17025 Scopes of Accreditation refer to www.altolenterprises.com

REPORT OF ANALYSIS
Certificate Number: CERT - 16308

November 7, 2016

Parameter	Units	Result	Method	Method Detection Limit	Analysis Date	Analysis Time	Analyst
Zinc	mg/L	0.312	EPA 200.7	0.0060	October 31, 2016	1329	JD

ND=NOT DETECTED

Saira Vázquez Báez
Saira Vázquez Báez

Laboratory Operations Director

Licensed Chemist 5471





CSO# 6777

CUSTODY #

Customer Company Name & Address: EC waste				Customer Contact (Print name & sign): <i>Mania Vidal</i>				METALS		WET CHEMISTRY		CHROMATOGRAPHY	
Project Name: water test				PO: 17441				Aluminum (A,C)	Acidity (A)	Phenol (A)	BTEX (A,E)		
Project Address: Peñuelas				Phone:				Antimony (A,C)	Alkalinity (A)	P. Total (A, B)	BTEX (A)		
TURN AROUND TIME: Rush <input type="checkbox"/> Days <input checked="" type="checkbox"/> Normal <input type="checkbox"/>				Invoice to sample <input type="checkbox"/> Owner <input type="checkbox"/> Consultant <input type="checkbox"/>				Arsenic (A,C)	Ammonia (A,B)	Res. Chlorine (A)	Chloroform as TTO (A) (E)		
ANALYSIS TYPE: <input checked="" type="checkbox"/> SW <input type="checkbox"/> Other				SAMPLE TYPE: <input checked="" type="checkbox"/> Liquid <input type="checkbox"/> Solid				Barium (A,C)	Asbestos (A)	Sel. Solids mg/L (A)	Dioxin (A)		
Chemical <input type="checkbox"/> Microbiology <input type="checkbox"/>				Source Water <input type="checkbox"/> Drinking Water <input checked="" type="checkbox"/>				Berillium (A,C)	Bicarbonate (A)	Sel. Solids m/L (A)	MEK(A)		
ENVIRONMENTAL CONDITION: Sunny <input type="checkbox"/> Cloudy <input type="checkbox"/> Rainy <input checked="" type="checkbox"/> Windy <input type="checkbox"/> Fugitive Dust <input type="checkbox"/> Other <input type="checkbox"/>				Waste Water <input type="checkbox"/> Food <input type="checkbox"/> Solid Waste <input type="checkbox"/> Soil <input type="checkbox"/> Seawater <input checked="" type="checkbox"/>				Bismuth (A,C)	BOD-5 (A)	Silica (A)	MTBE(A)		
LAB. SAMPLE # (LAB USE): AL 16-9003				DATE: 10/18/16 TIME: 0755				Boron (A,C)	Bromide (A)	Solids Total (A)	PCBS(A) 8082 608 (A)		
SAMPLE DESCRIPTION OR SAMPLING POINT NUMBER: Out Fall 001								Cadmium (A,C)	CaO MgO (1)	Sulfate(A)	Pesticide - TTO (A)		
				Punto Monitoria				Calcium (A,C)	Carbonate (A)	Sulfide UND (D,H,A)	Phenols by GC (A)		
								Chromium (A,C)	Chloride (A)	Sulfite (A)	TBA (A)		
								Chromium VI (A,C)	COD (A,B)	Surfactant (A)	TPH D G O (A)		
								Cobalt (A,C)	Color ADMI (A)	Suspended Solids (A)	TTO (A,E)		
								Cooper (A,C)	Color Pt-Co (A)	TDS (A)	TTO Semi-Volatile (A)		
								Gold (A)	Conductivity (A)	TKN (A,B)	VOC's - TTO (A)		
								Hardness (A,C)	Cyanide (A,D,G)	TOC (A,B)	MICROBIOLOGY		
								Iron (A,C)	D.O (A)	Turbidity (A)	Total Coliform (A,F)		
								Lead (A,C)	Fluoride (A)		Fecal Coliform (A,F)		
								Lead (A)	Iodide (A)	RCRA		HPC (A,F)	
								Lithium (A,C)	Iodine (A)	Reactivity (A)	Enterococcus (A,F)		
								Magnesium (A,C)	MLVSS (A)	Corrosivity (A)	E. Coli 0157 MPN (A,F)		
								Manganese (A,C)	Moisture (A)	Ignitability (A)	Mold & Yeast (A,F)		
								Mercury (A,C)	Nitrate & Nitrite (A)	Metals - TCLP (A)	Salmonella (A,F)		
								Molybdenum (A,C)	Nitrate (A)	Volatile - TCLP (A)	Campylobacter (A,F)		
								Nickel (A,C)	Nitrite (A)	Semi-Volatile-TCLP (A)	Listeria (A,F)		
								Potassium (A,C)	O&G Total (A,B)	Pesticide - TCLP (A)	FOOD ANALYSES		
								Selenium (A,C)	O&G TPH (A,B)	Herbicide - TCLP (A)	% Collagen		
								Silicon (A,C)	Ortho Phosphate (A,B)	TOX (A)	% FAT		
								Silver (A,C)			% Protein		
								Sodium (A,C)	O ₂ mg/l		Water Activity - Aw		
								Strontium (A,C)		LEGEND PRESERVATION USED			
								Thallium (A,C)	pH 7.45 su	A Ice (Cool, 4 °C)	E HCL		
								Tin (A,C)		B H ₂ SO ₄	F Sodium Thiosulfate		
								Titanium (A,C)	Temp °C	C HNO ₃	G Ascorbic Acid		
								Vanadium (A,C)		D Na OH	H Zinc Acetate		
								Zinc (A,C)	Cl ₂ mg/l	I Other:			
Comments & Special Instructions: P-Cresol Alpha Terpineol Benzoic Acid				CONDITIONS OF SAMPLES UPON RECEIPT		TEMPERATURE OF SAMPLE		CONDITION SAMPLE		LABORATORY ACTION			
				Thermometer Serial # 1108		Room Temperature		Sample Intact		Sample Accepted			
Sample Collected & Relinquished by (Print name & sign): <i>Mania Vidal</i>				Date: 10/18/16		Received by (Print name & sign): <i>N. Hernandez</i>		Date: 10/18/16		Delivery to Lab. by (Print name & sign): <i>N. Hernandez</i>			
Company:				Time: 7:55 AM		Company: Al Chem		Time: 1430		Date: 10/18/16 Time: 1530			
Relinquished by (Print name & sign): <i>[Signature]</i>				Collector ID#		Received by (Print name & sign): <i>[Signature]</i>		Date:		Received at Lab. by (Print name & sign): <i>Luis Oquendo</i>			
Company:				Time:		Company:		Time:		Date: 10/18/16 Time: 1530			
				Collector ID#									

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

PEÑUELAS VALLEY LANDFILL, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

E.C. WASTE, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

Facility Name
Peñuelas Valley Landfill
Road PR-385, Km .4.5, Tallaboa Ward
Peñuelas, Puerto Rico
NPDES Tracking Number PRR053203

RESPONDENT

Proceeding pursuant to Sections 308(a) and 309(a) of
the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER AND
INFORMATION REQUEST

DOCKET NUMBER
CWA-02-2017-3103

ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE
COMPLIANCE ORDER

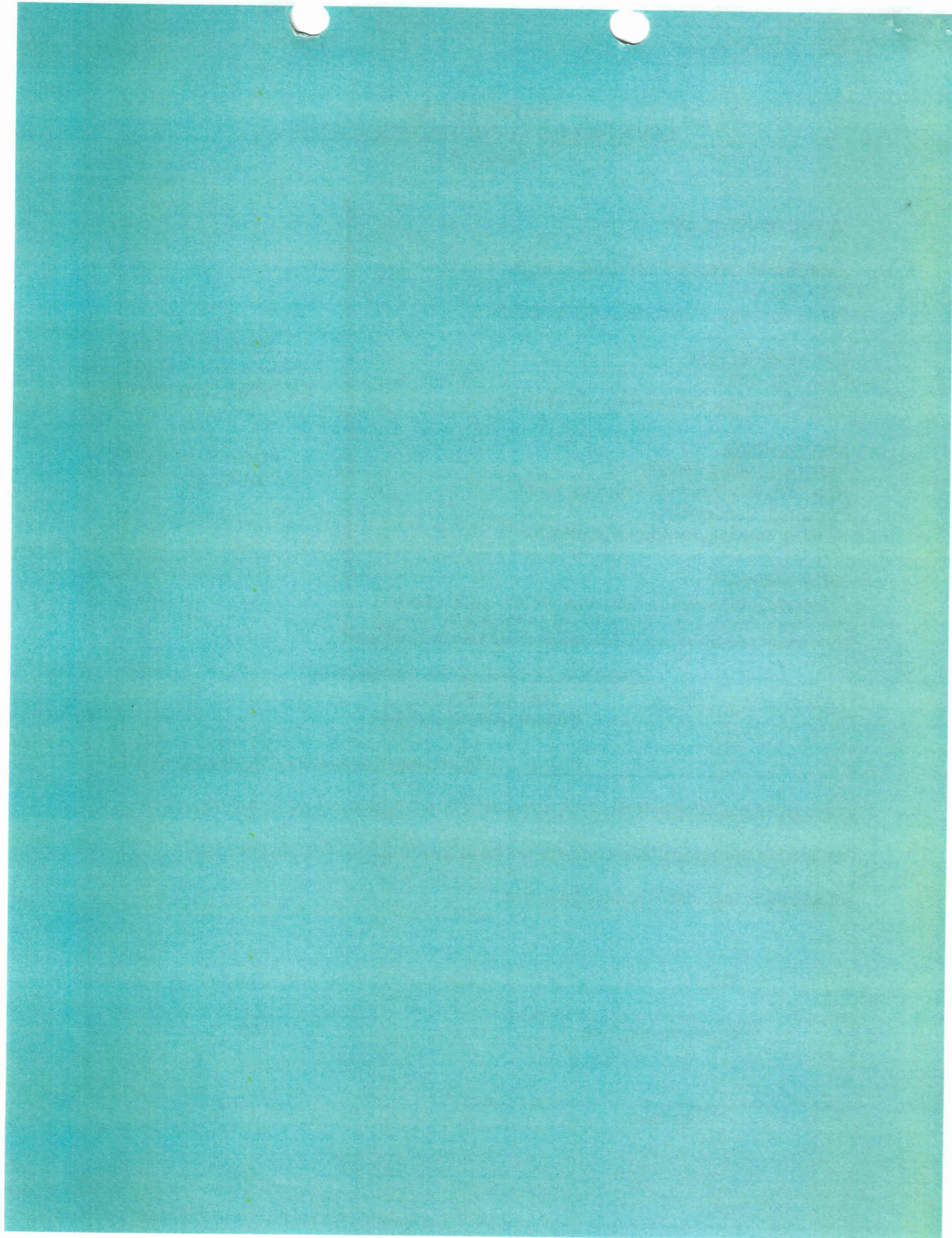
I, _____, do hereby acknowledge the receipt of a
true copy of the ADMINISTRATIVE COMPLIANCE ORDER, CWA-02-2017-3103.

Pursuant to the signatories requirements in 40 CFR§122.22, I certify that I am
authorized to sign this acknowledgement.

Print Name and Title

Date

Signature



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

PEÑUELAS VALLEY LANDFILL, LLC.

P. O. Box 918
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Proceeding pursuant to Sections 308(a) and 309(a) of
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**ADMINISTRATIVE
COMPLIANCE ORDER AND
INFORMATION REQUEST**

**DOCKET NUMBER
CWA-02-2017-3103**

I. PRELIMINARY STATEMENT

1. This Administrative Compliance Order and Information Request (together the "Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Sections 308(a) and 309(a) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. §§ 1318(a) and 1319(a).
2. The Administrator has delegated the authority to take these actions to the Regional Administrator of Region 2, who in turn, has delegated such authority to the Director of the Caribbean Environmental Protection Division.

II. STATUTORY AND REGULATORY AUTHORITIES

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that "[e]xcept as in compliance with [CWA Section 402], the discharge of any pollutant by any person shall be unlawful."

4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System ("NPDES") as the national program for, among other things, issuing and enforcing discharge permits.
5. Section 402 of the CWA authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.
6. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that "the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant upon condition that such discharge will meet such requirements as the Administrator determines are necessary to carry out the provisions of the [CWA]."
7. Pursuant to the CWA, EPA promulgated regulations known as "EPA Administered Permit Programs: the National Pollutant Discharge Elimination System," which was codified at 40 C.F.R. Part 122, as amended.
8. Pursuant to the NPDES regulations at 40 C.F.R. § 122.1(b)(1), the NPDES Permit Program requires permits for the discharge of any pollutant from any point source into waters of the United States.
9. Pursuant to 40 C.F.R. § 122.21(a)(1), any person who discharges or proposes to discharge pollutants, and who does not have an effective permit, must submit a complete NPDES permit application to EPA.
10. Pursuant to 40 C.F.R. § 122.21(a)(2)(i), all applicants for EPA-issued NPDES permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there.
11. Pursuant to 40 C.F.R. § 122.21(d)(2), permittees with currently effective permits shall submit a new application one hundred eighty (180) days before the existing permit expires, except that the Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.
12. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to stormwater discharges associated with industrial activity.
13. Pursuant to the CWA, EPA promulgated NPDES regulations defining the term "stormwater associated with industrial activity." 40 C.F.R. § 122.26(b).
14. Pursuant to the NPDES regulations at 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), certain facility operators are required to obtain an NPDES permit for stormwater discharges associated with industrial activity.

15. Pursuant to 40 C.F.R. § 122.26(b)(14)(v), landfills, land application sites, and open dumps that receive or have received any industrial waste including those that are subject to the regulation under subtitle D of the Resource Conservation and Recovery Act were included in the definition of stormwater associated with industrial activity.
16. The CWA and its implementing NPDES regulations contain the following definitions:
 - a. "Administrator" means the Administrator of EPA, or an authorized representative. 40 C.F.R. § 122.2;
 - b. "Best Management Practices" or "BMPs" mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. 40 C.F.R. § 122.2;
 - c. "discharge of a pollutant" means any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2;
 - d. "facility" means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 C.F.R. § 122.2;
 - e. "industrial activity" means the eleven categories of industrial activities included in the definition of "stormwater discharges associated with industrial activity" as defined in 40 C.F.R. §§ 122.26(b)(14)(i)-(xi);
 - f. "navigable waters" means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7);
 - g. "owner" or "operator" means the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 C.F.R. § 122.2;
 - h. "permit" means an authorization, license, or equivalent control document issued by EPA or an "approved State" to implement the requirements of 40 C.F.R. Parts 122, 123 and 124. The term "permit" does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit." 40 C.F.R. § 122.2;
 - i. "person" means an individual, corporation, partnership or association. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2;

- j. "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2;
 - k. "pollutant" includes solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2;
 - l. "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles. Section 502(8) of the CWA, 33 U.S.C. § 1362(8);
 - m. "site" means the land or water area where any "facility" or "activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. 40 C.F.R. § 122.2;
 - n. "stormwater associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. 40 C.F.R. §§ 122.2 and 122.26(b)(14); and
 - o. "waters of the United States" means all waters such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, among others, and their tributaries. 40 C.F.R. § 122.2.
17. The following definitions and "terms" apply in this Order:
- a. "Non-structural BMP" means best management practices that generally consist of processes, prohibitions, procedures, and schedules of activities that prevent pollutants associated with industrial activity from contacting with stormwater discharges and authorized non-stormwater discharges. They are considered low technology, cost-effective measures, and do not involve construction and installation, and usually work by changing behavior, persuasion and/or economic instruments;
 - b. "Standard Operating Procedure(s)" or "SOP(s)" means the established or prescribed method(s) to be followed routinely for the performance of designated environmental compliance activities, operations, or in designated situations; and

- c. "Structural BMP" means the fixed, permanent physical structures and equipment requiring planning, design construction and maintenance that are designed to remove pollutants from stormwater runoff, reduce downstream erosion, provide flood control and promote groundwater recharge.
18. On October 30, 2000, EPA reissued the NPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activities (the "2000 MSGP") pursuant to Section 402(p) of the Act, 33 U.S.C. § 1342(p). The 2000 MSGP became effective on October 30, 2000 and expired on October 30, 2005.
19. On September 29, 2008, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP"). The 2008 MSGP became effective on September 29, 2008, and expired on September 29, 2013.
20. The 2000 MSGP and the 2008 MSGP established among others, Notice of Intent ("NOI") filing requirements to obtain permit coverage, development and implementation of a Stormwater Pollution Prevention Plan ("SWPPP"), monitoring, reporting, and other special and general conditions. Particularly, the 2000 MSGP and the 2008 MSGP included special conditions and requirements applicable to landfills in Part 6.L and Part 8, Subpart L, respectively.
21. Coverage under the 2000 MSGP and 2008 MSGP were administratively extended for those operators who obtained coverage prior their expiration dates of October 30, 2005 and September 29, 2013, respectively, until such time reissuance of the permit occurred, at which time the permittee must comply with the NOI filing conditions of the issued new permit to maintain authorization to discharge stormwater associated with industrial activities.
22. Part B.1 (Duty to Comply) of the 2008 MSGP required the permittee to comply with all conditions of the 2008 MSGP. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
23. Part B.2 (Duty to Reapply) of the 2008 MSGP indicated that if the permittee wished to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain authorization as required by the new permit once issued by EPA.
24. On June 4, 2015, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2015 MSGP"), as authorized under Section 402(p) of the CWA, 33 U.S.C. § 1342(p). The 2015 MSGP became effective on June 4, 2015 and will expire on June 4, 2020.

25. The 2015 MSGP also established NOI filing requirements, development and implementation of a SWPPP, inspections, monitoring, reporting, recordkeeping and other special and general conditions.
26. Part 1.2. of the 2015 MSGP establishes the eligibility and NOI filing requirements for operators of industrial activities covered under the 2015 MSGP. Specifically, Table 1-2 of Part 1.2.1.3 of the 2015 MSGP required operators of industrial activities that were authorized for coverage under the 2008 MSGP, to file an electronic NOI no later than September 2, 2015. Upon submittal of the electronic NOI, the 2015 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
27. Additionally, Part 1.2.1 and Part 5 of the 2015 MSGP required operators of industrial activities covered under a previous version of the permit [2008 MSGP] to update the existing SWPPP to include all provision included in the permit prior to submitting the electronic NOI for coverage under the 2015 MSGP.
28. Upon the electronic NOI submittal, the discharge authorization under the 2015 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
29. Appendix A of the 2015 MSGP contains the following definitions:
 - a. "measurable storm event" means a precipitation event that results in a measurable amount of precipitation (i.e., a storm event that results in an actual discharge) and that follows the preceding storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events;
 - b. "non-stormwater discharges" means discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, pavement wash water, external building wash-down, irrigation water, or uncontaminated ground water or spring water;
 - c. "operator" means any entity with a stormwater discharge associated with industrial activity that meets either of the following two (2) criteria:
 - (1) the entity has operational control over industrial activities, including the ability to modify those activities; or

- (2) the entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit);
 - d. "qualified personnel" means those individuals who are knowledgeable in the principles and practices of industrial stormwater controls and pollution prevention, and who possess the education and ability to assess conditions at the industrial facility that could impact stormwater quality, and the education and ability to assess the effectiveness of stormwater controls selected and installed to meet the requirements of the permit;
 - e. "significant materials" include, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges; and
 - f. "storm event" means a precipitation event that results in a measurable amount of precipitation.
30. Among others, the 2015 MSGP established the following requirements:
- a. eligibility (Part 1);
 - b. compliance measures and effluent limits (Part 2), which require the selection, design, and construction/implementation of control measures, such as non-structural and structural BMPs, to meet the non-numeric effluent limits. The selection, design, installation, and implementation of the control measures must be in accordance with good engineering practices and manufacturer's specifications;
 - c. inspections (Part 3);
 - d. corrective actions (Part 4);
 - e. SWPPP in accordance with good engineering practices and industry standards (Part 5);
 - f. monitoring (Part 6);
 - g. reporting and record-keeping (Part 7);

- h. sector-specific requirements (Part 8); and
 - i. special and general conditions.
31. Pursuant to Part 6.2.2.3 of the 2015 MSGP, if any monitoring value exceeds a numeric effluent limitation, the following actions must be taken by the permittee:
- a. report such exceedance on a "Change NOI" form in the NPDES eReporting Tool (NeT); and
 - b. conduct follow-up monitoring within thirty (30) calendar days (or during the next qualifying runoff event, should none occur within thirty (30) days) of implementing corrective action(s) taken per Part 4 of the 2015 MSGP.
32. Pursuant to Part 6.2.2.3 of the 2015 MSGP, when the follow-up monitoring referenced in paragraph 31.b above, results in an exceedance of an applicable effluent limitation, the permittee must:
- a. submit to EPA an exceedance report no later than thirty (30) days after the receipt of the laboratory result consistent with Part 7.6 of the 2015 MSGP (ie. submit the exceedance report to the appropriate EPA Regional Office listed in Part 7.9.1 of the 2015 MSGP, and report the monitoring data through NetDMR); and
 - b. continue to monitor, at least quarterly, until the discharge is in compliance with the effluent limit or until EPA waives the requirement for additional monitoring, and once back in compliance with the effluent limitation indicate such fact on a "Change NOI" form pursuant to Part 7.4 of the 2015 MSGP.
33. Section 308(a)(A) of the CWA, 33 U.S.C. § 1318(a)(A), provides that "[w]henever required to carry out the objective of . . . [CWA Section 402], the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as [the Administrator] may reasonably require."
34. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that "[w]henever on the basis of any information available . . . the Administrator finds that any person is in violation of [CWA Sections 301 and 308], or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under [Section 402 of the Act, the Administrator] shall issue an Order requiring such person to comply with such section...."

35. Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), provides that "[a]ny Order issued under [CWA Section 309] shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance . . . taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements."
36. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the federal NPDES program. EPA maintains enforcement authority for violations of the CWA and its implementing regulations.

III. JURISDICTIONAL STATEMENTS

37. Peñuelas Valley Landfill, LLC. ("Respondent PVL") is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent is registered in the Puerto Rico Department of State under registration number 4,229.
38. E.C. WASTE, LLC. ("Respondent ECW") is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent is registered in the Puerto Rico Department of State under registration number 4,230.
39. Hereinafter, Respondent PVL and Respondent ECW, are collectively referred to as "Respondents".
40. Respondents' principal office is located at Road 3, Int. PR-923, Km 1.7, Buena Vista Ward, Humacao, Puerto Rico 00718.
41. Respondents are a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
42. Respondents are the current owners and/or operators of a landfill facility, known as Peñuelas Valley Landfill ("PVL" or "Landfill"). The PVL is located at Road PR-385, Km .4.5, Tallaboa Ward, Peñuelas, Puerto Rico.
43. At all relevant times to this Order, Respondents were the owners/operators of the Landfill.
44. Respondents' activities at the Landfill mainly consist of the management and disposal of industrial wastewater, industrial/commercial waste and sludge from the Puerto Rico Aqueduct and Sewer Authority ("PRASA") treatment facilities. These operations at the Landfill are best described by the Standard Industrial Classification ("SIC") Code 4953 (refuse system, landfills).
45. Stormwater runoff containing "pollutants" associated with industrial activities conducted at the Landfill is collected in concrete line culverts and ditches that discharge directly into an unnamed creek. This unnamed creek flows along the east and south sides of the Landfill premises, which in turn flows into the Tallaboa

Industrial Channel, a tributary of the Tallaboa River. The Tallaboa River discharges into the Caribbean Sea, a territorial sea and water of the United States.

46. The Landfill is a "facility" as defined in 40 C.F.R. § 122.2.
47. The Landfill is a "point source" pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
48. The unnamed creek, the Tallaboa Industrial Channel, the Tallaboa River, and the Caribbean Sea are waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
49. Respondents are subject to the provisions of the CWA, 33 U.S.C. § 1251, et seq., and the applicable NPDES permit application regulations found at 40 C.F.R. § 122.

IV. FINDINGS OF VIOLATIONS

50. On August 9, 2016, an EPA official reviewed several EPA's enforcement and compliance databases to determine Respondents' compliance with Act and the NPDES stormwater permit application regulations (the "Record Review").
51. The Record Review revealed that:
 - a. on January 29, 2001, Respondent PVL submitted an electronic NOI form to EPA to seek coverage under the 2000 MSGP obtaining coverage effective February 28, 2001 under NPDES tracking number PRR05A898;
 - b. on January 2, 2009, Respondent PVL submitted an electronic NOI form to EPA to seek coverage under the 2008 MSGP obtaining coverage effective February 1, 2009 under NPDES tracking number PRR05BK78;
 - c. on October 5, 2015, Respondent ECW submitted an electronic NOI to EPA seeking coverage for the Landfill under the 2015 MSGP obtaining coverage effective November 4, 2015, under permit tracking number PRR053203; and
 - d. as part of the electronic NOI submittal seeking coverage for the Landfill under the 2015 MSGP, Respondent ECW provided an internet address¹ to make certain information of the August 2015 SWPPP available to the public.
52. On August 10, 2016, an EPA official conducted a Compliance Evaluation Inspection ("Inspection") of the Landfill. The purpose of the Inspection was to evaluate Respondent's compliance with the Act, the NPDES stormwater permit regulations and the 2015 MSGP.

¹ The SWPPP can be found at the following URL address: https://ecwaste1-public.sharepoint.com/SiteAssets/Penuelas_Valley_Landfill_SWPPP_MSGP2015.pdf.

53. During the Inspection, the EPA official conducted a walkthrough of the Landfill. Also, the EPA official performed a review of the SWPPP prepared for the Landfill.
54. The findings of the Inspection were summarized in the NPDES Water Compliance Inspection Report ("Inspection Report"), dated December 14, 2016. See **Attachment 1** of this Order for a copy of the Inspection Report.
55. The walkthrough the Landfill revealed, among other things, the following:
 - a. the structural BMPs, such as the stormwater retention pond, were not effective in removing sediments from stormwater runoff to minimize pollutants in the discharge as required by Part 2.1 of the 2015 MSGP; and
 - b. closed cells slopes, roads and earthen ditches of the stormwater collection system were not efficient in controlling erosion and sediment resulting from stormwater runoffs to minimize the discharge of pollutants as required by Part 2.1.2 of the 2015 MSGP.
56. During the Inspection EPA performed a review of the August 2015 SWPPP. EPA noticed that corrective actions were not documented in the SWPPP as required in Part 4 of the 2015 MSGP.
57. On November 29, 2016, EPA received from Respondent a copy of the laboratory report of a stormwater runoff sampling event performed on October 18, 2017 ("Effluent Limitation Sampling Report").
58. The result reported in the Effluent Limitation Sampling Report for Total Suspended Solids ("TSS") was 1,510 mg/L, which exceeded the effluent limitation of 88 mg/L established in Part 8.L.10 of the 2015 MSGP for TSS.
59. Respondents' permit conditions violations stated above constitute a violation of Section 301(a) of the Act and the applicable NPDES regulations.
60. Pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA has enforcement authority to issue this Order to address Respondents' violations of the conditions of the 2015 MSGP permit, issued under Section 402(p) of the Act.

V. ORDERED PROVISIONS

In consideration of the Findings of Violations, above, and pursuant to the authority in Section 309(a) of the CWA, 33 U.S.C. § 1319(a), EPA has determined that compliance with the following requirements is reasonable.

IT IS HEREBY ORDERED:

61. **Within three (3) calendar days upon receipt of the originals of this Order**, an authorized representative of Respondents shall complete and submit the acknowledgment of receipt on one of the originals of the Order to EPA.
62. **Within fifteen (15) calendar days of receipt of this Order**, Respondents shall amend the electronic NOI submitted by Respondent ECW pursuant to the requirements in Parts 1 and 7 of the 2015 MSGP to reflect the current operator(s) of the Landfill. Respondents shall also submit within this timeframe, a written communication to EPA certifying its submission of a complete and accurate amended electronic NOI.
63. **Within thirty (30) days of receipt of this Order**, Respondents shall prepare and submit a Work Plan, for EPA's review and approval, to achieve compliance with the 2015 MSGP. The Work Plan shall describe the specific tasks to be performed, including a schedule with the expected completion date of each task. All activities included in the Work Plan shall be completed within hundred and twenty (120) calendar days from the receipt date of this Order and shall contemplate dates for the Monthly Progress Reports submittal, as indicated in paragraph 64 below.

The Work Plan shall address the findings in the inspection report, and, at a minimum, include the following:

- a. a description of the planned improvements, and maintenance and/or replacement of the existing BMPs, as required in Parts 2 and 5 of the 2015 MSGP;
- b. revision of the SWPPP dated August 2015, to comply with the requirements of Parts 4 and 5 of the 2015 MSGP;
- c. implementation of corrective actions pursuant to Part 4 of the 2015 MSGP in order to comply with the effluent limitation for TSS through outfall 001 established in Part 8.L.10 of the 2015 MSGP;
- d. monitoring of TSS at outfall 001, as required in Part 6.2.2 of the 2015 MSGP;
- e. preparation and implementation of a rainfall data collection, management, and record-keeping Standard Operating Procedure at the Landfill;
- f. preparation and implementation of a stormwater sampling Standard Operating Procedure at the Landfill;
- g. fixed-date schedules for the implementation of BMPs to achieve compliance, as required in Parts 2 and 5.2.5 of the 2015 MSGP; and

- h. estimated costs of achieving compliance, including capital costs of the proposed BMPs, including the operations and maintenance ("O&M") costs associated with any future plan developed as part of the Work Plan. The estimated cost shall include, at a minimum, but not limited to, monitoring equipment, labor, and laboratory analysis cost, training of personnel, etc., which will be required to implement the plan and correct the findings of violations.

Respondents shall immediately implement the approved Work Plan according to the milestones and schedules included therein, which will become an enforceable provision of this Order.

- 64. Respondents shall prepare and submit Monthly Progress Reports (on the 15th day of the month). The first monthly report shall be submitted on April 15, 2017 and every 30 days thereafter, until this Order is no longer effective or until full compliance with this Order has been achieved and EPA notifies Respondent that submissions are no longer required. The Monthly Progress Report shall include:
 - a. the specific activities undertaken to bring the Landfill into compliance with the Act, the applicable NPDES regulations and the 2015 MSGP, as provided for in the Work Plan in paragraph 63, above;
 - b. the status of the implementation of the Work Plan developed pursuant to paragraph 63, above;
 - c. description of any impediment Respondent encountered in the process to comply with the Ordered Provisions included in this Order and the steps taken to minimize any setbacks in the completion of any activity required as part of this Order; and
 - d. a cost report detailing the expenses incurred, as of the date of the Monthly Progress Reports concerning the milestones and activities performed towards meeting the Provisions of this Order.

VI. REQUESTED INFORMATION

Based on the Findings of Violations, above, and pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), Respondents are required to submit the following to EPA in writing.

- 65. **Within twenty (20) calendar days of receipt of this Order**, Respondents shall submit documentation of the actions taken, pursuant to Part 6.2.2.3 of the 2015 MSGP, after exceeding the effluent limitation for TSS on the sampling performed on October 18, 2016. The information provided shall, at a minimum, include the following:

- a. evidence that Respondents reported the TSS exceedance on a "Change NOI" form in the NPDES eReporting Tool (NeT);
- b. evidence that Respondents conducted a follow-up monitoring within thirty (30) calendar days after exceeding the effluent limitation for TSS (or during the next qualifying runoff event, should none occur within thirty (30) days) of implementing corrective action(s); and
- c. evidence that Respondents reported the results of the follow-up monitoring referenced in paragraph 65.b above, on a "Change NOI".

VII. GENERAL PROVISIONS

- 66. Any questions concerning this Order should be directed to Jaime López, Senior Enforcement Officer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at (787) 977-5851 / lopez.jaime@epa.gov.
- 67. Any documents to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent, and shall be signed by an authorized representative (see 40 C.F.R. § 122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- 68. All information required to be submitted under this Order shall be sent by certified mail (or its equivalent) to the following contacts and their addresses:

Director, Water Quality Area
Environmental Quality Board
P. O. Box 11488
San Juan, Puerto Rico 00910;

and

Team Leader, Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
48 RD. 165 Km. 1.2
Guaynabo, PR 00968-8069.

69. Respondent shall have the opportunity, for a period of twenty (20) days from the effective date of this Order, to confer, regarding the requested information and the Ordered Provisions, with the following designated Agency representative: Jaime López, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division located at City View Plaza II – Suite 7000, 48 RD 165, Km 1.2, Guaynabo, Puerto Rico, with phone number (787) 977-5851, and email lopez.jaime@epa.gov.
70. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.
71. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the NPDES implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
72. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in Respondent's liability for civil penalties for each violation of up to \$52,414 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of this Order.
73. Notice is hereby given that failure to comply with the requirements of the CWA Section 308 Information Request may result in Respondent's liability for civil penalties for each violation of up to \$52,414 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has failed to comply with the terms of the Information Request. Respondent may also be subject to administrative remedies for a failure to comply with the Information Request as provided by Section 309 of the CWA, 33 U.S.C. § 1319.

74. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
75. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: MARCH 1, 2017

Signed: 

CARMEN R. GUERRERO-PÉREZ

Director

Caribbean Environmental Protection Division

Attachment 1 – August 10, 2016 Compliance Inspection Report

cc: Director, Water Quality Area
Puerto Rico Environmental Quality Board

ATTACHMENT 1

August 10, 2016

Water Compliance Inspection Report



United States Environmental Protection Agency
Washington, D.C. 20460
Water Compliance Inspection Report

Form Approved.
OMB No. 2040-0057
Approval expires 8-31-98

Section A: National Data System Coding (i.e., PCS)

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 N 2 5 3	PRR053203	11 12 16/08/10 17	18 C	19 R	20 2
Remarks					
2 M S G P 2 0 1 5					
Inspection Work Days Facility Self-Monitoring Evaluation Rating B1 QA Reserved					
6 1 0 69 70 2 71 7 73 74 7 80					

Section B: Facility Data

Name and Location of Facility Inspected (for industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time/Date	Permit Effective Date
Penuelas Valley Landfill State Road PR-385, Km .4.5, Tallaboa Ward Penuelas, Puerto Rico 00624	8/10/16 10:00 am	06/04/15
	Exit Time/Date	Permit Expiration Date
	3/25/14 1:30 pm	06/04/20
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data	
Rene Rodriguez, EH&S, Manager	NPDES 2015 Multi Sector General Permit	
Name, Address of Responsible Official/Title/Phone and Fax Number(s)		
Mr. Randy Jansen President	Contacted <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/> Permit	Flow Measurement	Operations & Maintenance	CSO/SSO (Sewer Overflow)
<input checked="" type="checkbox"/> Records/Reports	Self-Monitoring Program	Sludge Handling/Disposal	<input checked="" type="checkbox"/> Pollution Prevention
<input checked="" type="checkbox"/> Facility Site Review	Compliance Schedules	Pretreatment	Multimedia
<input checked="" type="checkbox"/> Effluent/Receiving Water	Laboratory	<input checked="" type="checkbox"/> Storm Water	<input checked="" type="checkbox"/> Other: NOI

Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)

SEE SUPPLEMENT TO WATER COMPLIANCE INSPECTION REPORT FOR

Note from Reviewer: The NPDES number above is included, as it was the NPDES tracking number used to enter the inspection into the EPA database.

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Jaime Lopez, Senior Enforcement Officer	EPA/CEPD/MPCB (787) 977-5851	December 14, 2016
Signature of Management Q A Reviewer	Agency/Office/Phone and Fax Numbers	Date
Nancy Rodriguez, Chief	EPA/CEPD/MPCB (787) 977-5887	12/15/16

Peñuelas Valley Landfill

State Road PR-385, Km .4.5, Tallaboa Ward
Peñuelas, Puerto Rico 00624
Coordinates: Latitude 18.0123; Longitude 66.7011 NAD27

Owner/Operator – Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago, Puerto Rico 00741-0918
Telephone Number: (787) 790-5080

2012 MSGP Tracking Number PRR053203

1. INTRODUCTION

- a. This Supplement to the Water Compliance Inspection Report Form is prepared to include all findings and observations concerning the Compliance Evaluation Inspection (Inspection) conducted by senior enforcement officer, Jaime López (EPA Inspector), of the United States Environmental Protection Agency's (EPA) Caribbean Environmental Protection Division, at the Peñuelas Valley Landfill, LLC's (PVL) landfill located in Peñuelas, Puerto Rico ("Landfill" or "Facility"). The Inspection was conducted on Tuesday, August 10, 2016.
- b. Upon showing of credentials to the Landfill environmental protection, health and safety manager, Engineer René Rodríguez, the Inspection subject to this Report was performed under the authority in Section 308(a) of the Federal Water Pollution Control Act (CWA), as amended.
- c. The purpose of the Inspection was to determine PVL's compliance with Sections 301(a), 308(a), and 402(p) of the CWA, the National Pollutant Discharge Elimination System (NPDES) storm water permit application regulations codified in 40 C.F.R. §§ 122.21, 122.26 and 122.28, and the "2015 Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activities" (2015 MSGP). Also, the Inspection served to verify how the coal combustion residuals ("ash" or "CCR") coming from the industrial process at AES Puerto Rico, L.P.'s (AES) coal-fired power plant were being disposed at the Landfill, and to evaluate the pollution prevention activities and best management practices to address the stormwater runoff that comes in contact with the ash disposal areas at the Landfill.

2. GENERAL INFORMATION

- a. Date of Inspection – Tuesday, August 10, 2016.
- b. Time of Inspection – The Inspection began approximately at 10:00 a.m. and ended approximately at 1:30 p.m.

- c. Weather – Dry weather and sunny skies prevailed during the Inspection.
- d. Facility's Representative – René Rodríguez, Environmental Protection, Health and Safety Manager; Telephone Number (787) 447-2717.
- e. EPA's Representatives – Jaime López; Telephone Number (787) 977-5851 and Andrés Febres; Telephone Number 787-977-5801; e-mail: lopez.jaime@epa.gov.

3. PRIOR HISTORY OF ENFORCEMENT AND INSPECTION ACTIVITIES

A review of EPA databases and files revealed that this is the first EPA inspection performed at the landfill under section 308(a) of the Act.

4. WITH RESPECT TO PEÑUELAS VALLEY LANDFILL, LLC

- a. On January, 1997, a company named Peñuelas Valley Landfill, Inc. was registered in the Commonwealth of Puerto Rico Department of State (DOS) under registration number 96,457. On May 23, 2014, Peñuelas Valley Landfill, Inc. changed its name to Peñuelas Valley Landfill, LLC, and DOS issued the registration number 4,229 for this transaction. **Figure 1** shows the information about PVL found at the official DOS web site (www.estado.gobierno.pr).

Figure 1

The screenshot displays the official website of the Puerto Rico Department of State (DOS) for the 'Registro de Corporaciones y Entidades' (Registry of Corporations and Entities). The page features a search bar with the text 'Busqueda de Corporaciones' and a sidebar with various links including 'Buscar', 'Inscribir / Autorizar', 'Enmendar', 'Disolver / Retirar', 'Convertir', 'Suspender / Consolidar', 'Restaurar', and 'Reserva de Nombre'. The main content area shows the search results for 'Peñuelas Valley Landfill, LLC', with the registration number 4,229. The results table lists the company name, class, type, and status.

Registro	Nombre Corporación	Clase	Tipo	Status
1	Peñuelas Valley Landfill, LLC	LLC	LLC	Activa

- b. PVL is the owner and operator of the Facility.

- c. PVL meets the definition of a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

5. **WITH RESPECT TO E. C. WASTE, LLC**

- a. E. C. Waste, Inc. was a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico, and DOS issued a registration number 91,350 to that entity. On May 23, 2014, E. C. Waste, Inc. changed its name to E.C. Waste, LLC (ECW), and DOS issued the registration number 4,230 to this new entity.^{1,2} Figure 2 shows the information about ECW found at the official DOS web site.

Figure 2

The screenshot shows the 'Registro de Corporaciones y Entidades' website. The main heading is 'Registro de Corporaciones y Entidades'. Below it, there is a search bar with the text 'Busqueda de Corporaciones'. The search criteria are set to 'E.C. Waste' and 'Comenzando con'. The results show one entry: 'E.C. WASTE, LLC' with registration number '4230'. The status is 'ACTIVA'.

Registro	Nombre Corporación	Clase	Tipo	Estado
4230	E.C. WASTE, LLC	Corp. Resp. Limitada	Corp. Priv.	ACTIVA

- b. ECW meets the definition of a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
- c. ECW's main office is located at Road PR-923, Km 4.5, Buena Vista, Humacao, Puerto Rico 00718.

6. **BUSINESS RELATIONSHIP BETWEEN PVL AND ECW**

Based on information gathered during the Inspection and further review of

¹ Puerto Rico Waste Holdings, LLC is the parent company of PVL and ECW.

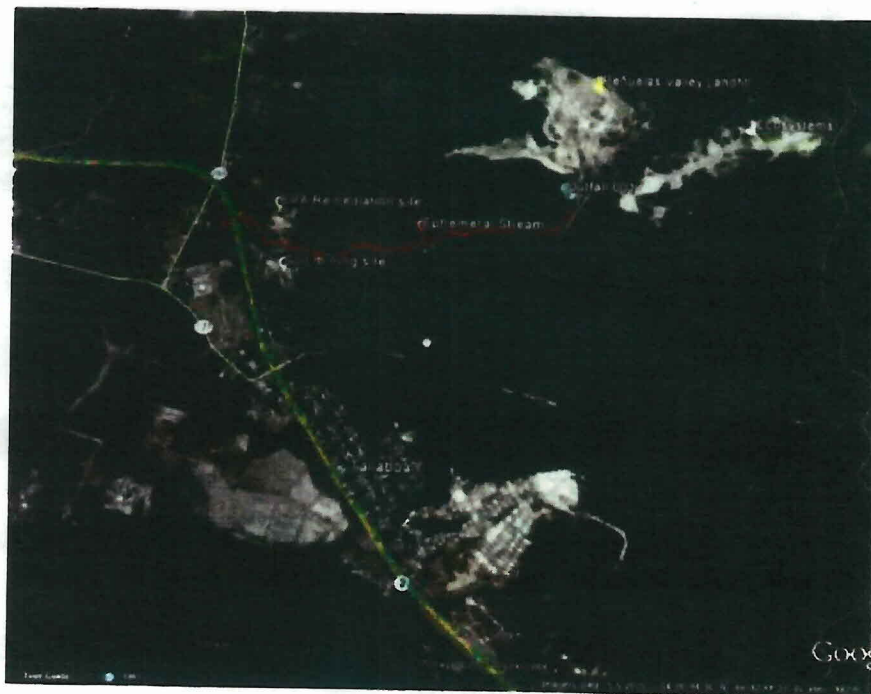
² The President of Puerto Rico Waste Holdings, LLC, PVL and ECW is Mr. Randy Jensen. He can be reached at (787) 790-5080 and (787) 852-4444.

additional information available to EPA, PVL is the day to day operator of the Landfill. ECW is a company that primarily collects and transport waste from the source into the Landfill, and it is not the owner and operator of the Landfill.³

7. **DESCRIPTION OF THE FACILITY**

- a. Since on or about 1999, the operations at the Landfill includes the management and disposal of industrial wastewater, industrial/commercial waste and sludge from the Puerto Rico Aqueduct and Sewer Authority (PRASA) treatment facilities.⁴ PVL's Facility is best described by the primary Standard Industrial Classification (SIC) code 4953. The estimated impacted area of the Landfill at the time of the inspection was approximately 29 acres of the 163 acres of Landfill property;
- b. **Picture 1** depicts the location of the Landfill (Source: Google Earth GIS Application at http://gis.otg.pr.gov/apps/pr_map/). The Landfill meets the definition of a "facility" pursuant to 40 C.F.R. § 122.2.

Picture 1

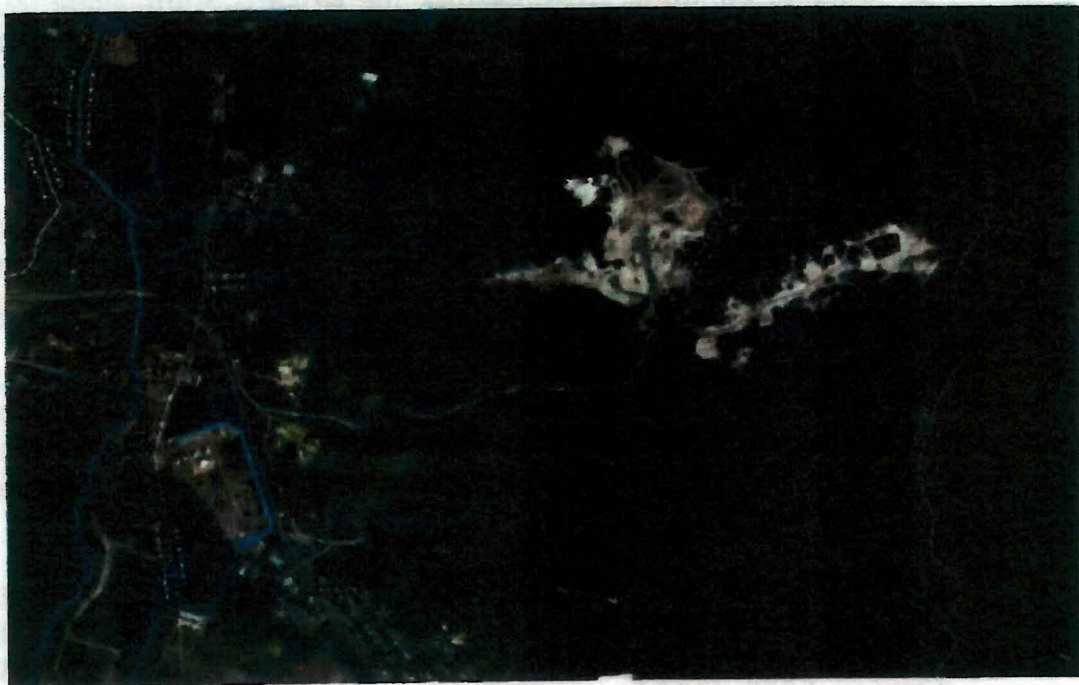


³ See Appendix A of the 2015 MSGP for the definition of "operator." Operator means any entity with a stormwater discharge associated with industrial activity that meets either of the following two criteria: the entity has operational control over industrial activities, including the ability to make modifications to those activities; or the entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit).

⁴ PVL operates the Landfill under permit number IDF-57-0020, which was issued by the Environmental Quality Board on January 15, 2014. The permit expires on January 15, 2019.

- c. The daily industrial and commercial waste managed at the Landfill is estimated at 200-300 tons. Also, the Landfill could manage 300-400 tons per day of fly-ash and bottom-ash originated from AES. In regards to the referenced ashes, the Landfill is capable of receiving and managing approximately from 4-5 daily trucks of fly-ash and from 2-3 daily trucks of bottom-ash, which are transported in 18 to 27 cubic meters' capacity steel enclosed cargo trucks or dry power encapsulated trucks. The industrial and commercial waste are deposited in layers at the designated shooting areas and are conditioned and maintained for the stabilization of side slopes and expansion of the sequenced areas. Then, the commercial and industrial waste are covered with solidified materials.
- d. The storm water runoff from the Landfill is collected in concrete line culverts and ditches that flows directly into an unnamed creek, which is a tributary of the Tallaboa River. This unnamed creek flows along the east and south sides of the Landfill premises, which in turn discharges into the Tallaboa Industrial Channel, which is a tributary of Tallaboa River. The Tallaboa River discharges into the Caribbean Sea, a navigable water of the United States. **Picture 2** depicts the watersheds nearby the Landfill, which includes the unnamed creek referenced above (Source: Puerto Rico Planning Board GIS Application at http://gis.otg.pr.gov/apps/pr_map/).

Picture 2



8. **APPLICABLE NPDES REGULATIONS AND PERMIT COVERAGE**

Regulations

- a. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to storm water discharges associated with industrial activity.
- b. The Administrator of EPA has promulgated regulations, 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), which require that an NPDES permit shall be obtained for storm water discharges associated with industrial activity. The Landfill is covered by the NPDES application regulation for storm water discharges at 40 C.F.R. § 122.26(b)(14)(v).⁵
- c. The EPA regulations at 40 C.F.R. § 122.26(e)(1)(i) require that operators of industrial facilities regulated under 40 C.F.R. § 122.26(a)(1)(ii) obtain and shall submit an individual NPDES permit application no later than October 1, 1992, if the facility is not part of a group application (as described in 40 C.F.R. § 122.26(c)(2)), or is not authorized by an NPDES storm water general permit for industrial activities.

Permit Coverage

- d. On October 30, 2000, EPA reissued the NPDES Storm Water Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (2000 MSGP) pursuant to Section 402(p) of the Act, 33 U.S.C. §1342(p). The 2000 MSGP became effective on October 30, 2000 and expired on October 30, 2005.
- e. The 2000 MSGP established among others, Notice of Intent (NOI), Storm Water Pollution Prevention Plans (SWPPP), monitoring, reporting, and other conditions. Particularly, Part 11.L of the MSGP included special conditions and requirements applicable to landfills.
- f. The 2000 MSGP required facilities to seek coverage by submitting a complete and accurate NOI in accordance with the requirements of Part 2, in order to obtain authorization to discharge storm water associated with industrial activity.
- g. On August 9, 2016, the EPA Inspector reviewed the EPA Storm Water NOI Processing Center database, and found that on January 29, 2001, PVL submitted a NOI form to EPA to seek coverage under the 2000 MSGP. EPA granted 2000 MSGP's coverage to PVL on February 28, 2001, and

⁵ 40 C.F.R. § 122.26(b)(14)(v) includes landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of Resource Conservation and Recovery Act (RCRA).

assigned permit tracking number PRR05A898.

- h. On September 29, 2008, EPA re-issued the NPDES Storm Water Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (2008 MSGP). The 2008 MSGP became effective on September 29, 2008 and expired on September 29, 2013.
- i. The EPA Inspector also found in its August 9, 2016 review of the NOI Processing Center Database that PVL submitted a NOI to EPA, dated January 2, 2009, to seek coverage under the 2008 MSGP. EPA granted 2008 MSGP's coverage to PVL on February 1, 2009, and assigned permit tracking number PRR05BK78. **Figure 3** depicts the information found at the NOI Processing Center Database.

Figure 3

The screenshot shows a web interface for searching the NOI Processing Center Database. It includes search filters for Name, City, State, County, and Zip. Below the filters is a 'Search' button. The results section is titled 'Filter Search Results' and shows a table with two entries for 'PENUELES VALLEY LANDFILL INC'. The table has columns for Tracking Number, Submittal, Coverage, Operator Name, Project ID or City Name, County, City, State, and Status. The first entry has Tracking Number PRR05A898, Submittal 01-29-2008, Coverage 01-29-2008, and Status Expired. The second entry has Tracking Number PRR05BK78, Submittal 01-02-2009, Coverage 02-01-2009, and Status Expired. The page number '1 - 2 of 2' is visible at the bottom right.

Tracking Number	Submittal	Coverage	Operator Name	Project ID or City Name	County	City	State	Status
PRR05A898	01-29-2008	01-29-2008	PENUELES VALLEY LANDFILL INC	PENUELES VALLEY LANDFILL INC	-	PENUELAS	PR	Expired
PRR05BK78	01-02-2009	02-01-2009	Penueles Valley Landfill, Inc	Penueles Valley Landfill	Penueles	Penueles	PR	Expired

- j. On June 4, 2015, EPA re-issued the reissued the NPDES Storm Water Multi-Sector General Permit for Storm Water Discharges from Industrial Activities (2015 MSGP). The 2015 MSGP became effective on June 4, 2015, and expires on June 4, 2020.
- k. On August 9, 2016, the EPA Inspector reviewed the NOI Processing Center Database, the Integrated Compliance Information System Database (ICIS) and the Enforcement and Compliance History Online (ECHO) database,

and found that:

- 1) On October 5, 2015, ECW submitted an electronic NOI to EPA for the Landfill to seek coverage under the 2015 MSGP;
- 2) EPA granted coverage to ECW beginning on November 4, 2015;
- 3) EPA assigned the permit tracking number PRR053203 to ECW for the Landfill; and
- 4) PVL did not file a NOI to seek coverage under the 2015 MSGP for the Landfill.

l. **Figure 4** depicts the information found at the ICIS database.

Figure 4

The screenshot shows the ICIS database interface. At the top, there is a navigation bar with links for FAC, NPDES, AIR, Admin, Reports, Help, JMWRA, and Logout. Below this, there is a search bar and a list of results. The selected result is a permit tracking number, PRR053203, which is associated with the permit tracking date 11/04/2015. The interface also displays the permit status as 'Effective' and the permit tracking number as 'PRR053203'. The bottom section of the interface shows a table with columns for 'Permit Tracking Number', 'Permit Tracking Date', and 'Permit Tracking Status'. The table contains one row with the values 'PRR053203', '11/04/2015', and 'Effective'.

- m. The EPA Inspector found that the operator of the Landfill (PVL) at the time of the Inspection did not submit an NPDES permit application nor a NOI to seek coverage under the 2015 MSGP.

9. ENTRY MEETING AND FACILITY'S WALKTHROUGH

- a. The Inspection commenced with an entry meeting where representatives from EPA and the Landfill met to generally discuss matters related to NPDES permitting, facility conditions, Best Management Practices (BMP) implementation, monitoring, inspection protocols, and records.

b. After the entry meeting, the EPA Inspector proceeded to conduct the Facility walkthrough. The EPA Inspector observed the following:

- 1) the structural BMPs to manage storm water runoff were not effective in removing sediments. In particular, the storm water retention pond design needs to be revised for adequate capacity and to increase the retention time for maximum efficiency.
- 2) the facility needs to improve and implement the requirements for erosion and sediment control and runoff management according to Part 2.1.2.5 of the 2015 MSGP, specifically, at closed cells slopes, roads and earthen ditches of the storm water collection system;
- 3) leachate was not observed at any part of the Landfill;
- 4) ashes were not being deposited at the Landfill during the course of the walkthrough; and
- 5) ashes were not observed in any area of the Landfill including the areas surrounding the retention pond and the storm water discharge point (outfall 001) into the unnamed creek.

c. The EPA Inspector documented his observations during the course of the walkthrough using the camera Nikon Coolpix P350 S77499. **Attachment 1** includes the Inspection Photo-Documentation.

10. **REVIEW OF RECORDS AND EXIT MEETING**

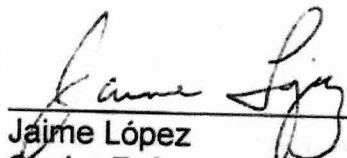
- a. Part 5 of the 2015 MSGP requires the development of a SWPPP for the facilities covered therein. On August 2015, ECW prepared a SWPPP for the Facility. A copy of the SWPPP was provided to the EPA Inspector.
- b. The EPA Inspector reviewed the SWPPP and found that the SWPPP did meet with the following conditions of the 2015 MSGP:
 - 1) Corrective actions were not documented; and
 - 2) The SWPPP was not amended due to effluent limits exceedances, which constitutes changes in design, construction, operation, or maintenance at the facility, which had a significant effect on the discharge, or potential to discharge of pollutants from the Facility.
- c. On October 18, 2016, a sampling of a stormwater runoff event was conducted for the effluent limits applicable in Part 8.L of the 2015 MSGP. A review of the laboratory results revealed that the Total Suspended Solids (TSS) limit established in Part 2.1.3 and Part 8.L of the 2015 MSGP was

exceeded. **Attachment 2** includes a copy of the results.

- d. The operator of the landfill has failed to take corrective actions after a triggering condition which are required under Part 4 of the MSGP particularly corrective actions were not taken for the exceeded effluent limit of TSS.
- e. The Inspection ended with an exit meeting in which the EPA Inspector informed the Landfill's representative that the SWPPP needed to be revised to address the effluent limits exceedances at the storm water discharge point (outfall 001). The EPA Inspector also informed that additional BMPs were needed for sediment controls specifically, at closed cells slopes, access roads, and earthen ditches of the storm water collection system and runoff management at the sedimentation pond.

End of report

Prepared by:



Jaime López

Senior Enforcement Inspector

U.S. Environmental Protection Agency, Region 2

12/14/16
Date

Attachments

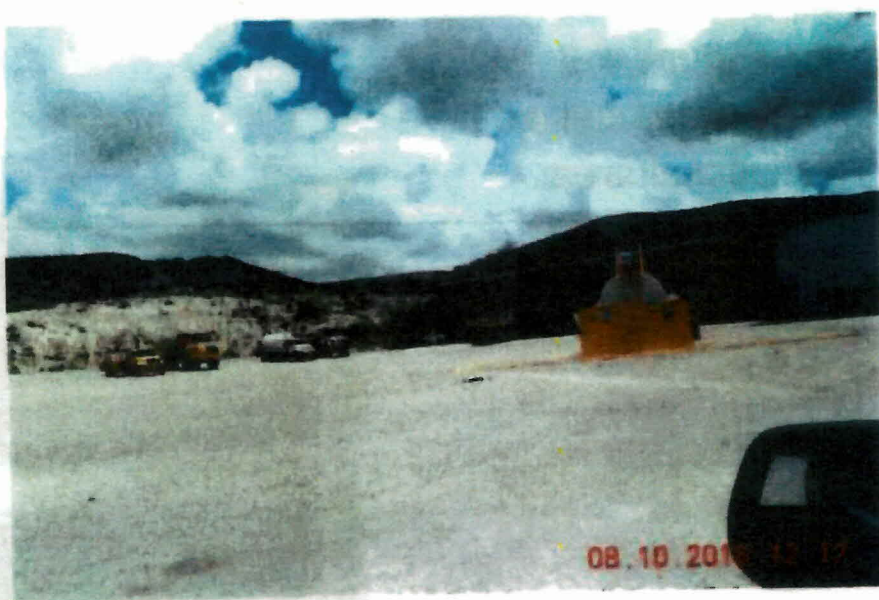
Picture # 1
Sediments accumulated
in the unnamed creek
under road bridge at
Facility access road
entrance.



Picture # 2
Facility entrance.



Picture # 3
Facility's equipment
maintenance and
storage area. Operations
conducted under roofed
building.



Picture # 4
Storm water
concrete-lined culvert
conveyance system.



08.10.2016 12:15



Picture # 5
Exposed soils without
soils stabilization within
one of the lined culvert
drainage slopes.

Picture # 6
New lined cell at
disposal area.



Picture # 7
Earthen dike with loose
soils and without soils
stabilization.



Picture # 8
Sediment trap on storm
water collection system
located prior to
overflow..



Picture # 9
Sediment accumulation
on plastic-lined ditch.



Picture # 10
Industrial liquid waste
tank.



Picture # 11
Industrial solidification
chamber/pit



Picture # 12
Leachate retention pond.



Picture # 13
Panoramic view of the
Facility showing
semi-arid conditions.



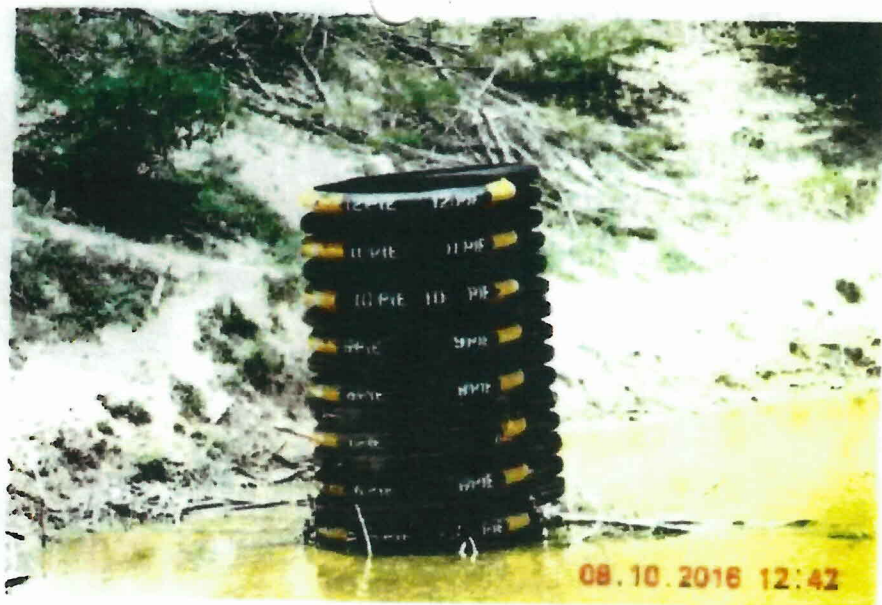
Picture # 14
Unpaved access roads.



Picture # 15
Unstabilized slopes.



Picture # 16
Perforated level drain at
retention pond.



Picture # 17
Retention pond on low
level and high freeboard.



Picture # 18
View of sediment basin.



Picture # 19
Signage of outfall 001

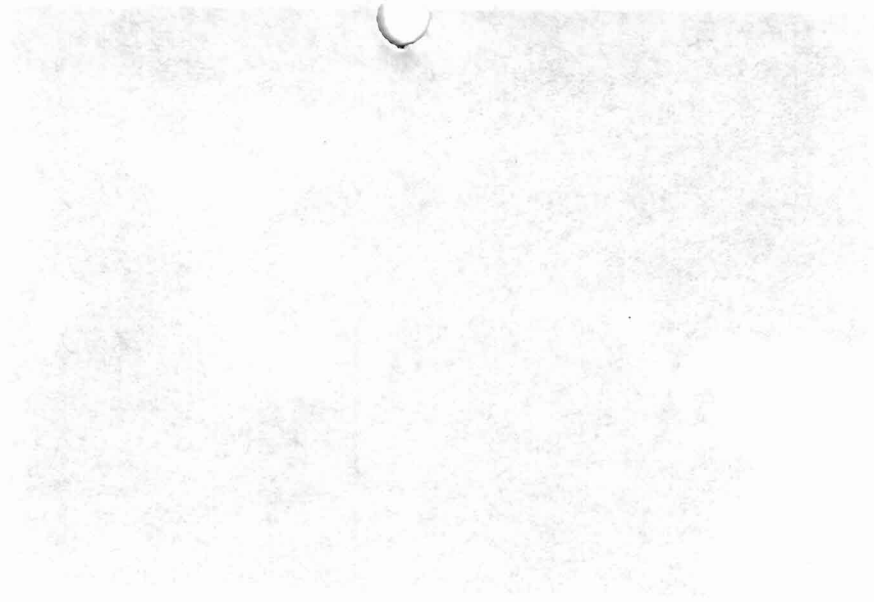


Picture # 20
Outfall 001 with stagnant
water and no discharge



Picture # 21
Complete view of
sediment basin showing
sedimentation at the
storm water intake





Attachment 2
October 18, 2016
Effluent Limits
Laboratory Analysis Results

REPORT OF ANALYSIS

Certificate Number: CERT - 16308

November 7, 2016

Customer Name:	EC WASTE			Custody Number:	85682		
Contact:	MARIA VIDAL			Sampled Date:	Tuesday, October 18, 2016		
Customer Address:	P O BOX 918			Sampled Time:	0755 hrs.		
	PUNTA SANTIAGO PR 00741-0918			Received Date:	Tuesday, October 18, 2016		
Phone/Fax:	787-836-3700			Received Time:	1530 hrs.		
Contact Email:	mvidal@ecwaste.com			Sample Matrix:	Liquid		
Sampled By:	Client			Sample Type:	Grab		
Sample Received By:	S. Aponte			Temp Rec at Lab:	4.0 °C		
Sample Delivered By:	N. Hernandez			Lab. Sample Number:	AT-16-9003		
Project and Sample Description:	Water Test Outfall 001 - Punto Monitoría						

Parameter	Units	Result	Method	Method Detection Limit	Analysis Date	Analysis Time	Analyst
Alpha Terpineol	mg/L	ND	EPA 625	---	November 2, 2016	2200	MG
Ammonia	---	<0.05	EPA 350.1	0.050	October 26, 2016	0940	EB
Benzoic Acid	mg/L	9.57	EPA 625	---	November 2, 2016	2200	MG
Biochemical Oxygen Demand	mg/L	77.5	SM 5210B	2.0	October 18, 2016	1758	JR
p-Cresol	mg/L	ND	EPA 625	---	November 2, 2016	2200	MG
pH	S.U.	7.45	SM 4500 H-B	0.10	October 18, 2016	1430	NH
Phenol	---	<0.005	EPA 420.4	0.0050	October 27, 2016	1626	EB
Total Suspended Solids	mg/L	1,510	SM 2540D	4.0	October 21, 2016	1226	JR

Page 1 of 2

CERTIFIED BY PUERTO RICO DEPARTMENT OF HEALTH FOR DRINKING WATER-CERTIFICATION NUMBER PR 00947
Test results in this report meet ISO 17025 requirements.
For ISO 17025 Scopes of Accreditation refer to www.altolenterprises.com

REPORT OF ANALYSIS
Certificate Number: CERT - 16308

November 7, 2016

Parameter	Units	Result	Method	Method Detection Limit	Analysis Date	Analysis Time	Analyst
Zinc	mg/L	0.312	EPA 200.7	0.0060	October 31, 2016	1329	JD

ND=NOT DETECTED

Saira Vázquez Báez
Saira Vázquez Báez

Laboratory Operations Director

Licensed Chemist 5421



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

PEÑUELAS VALLEY LANDFILL, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

E.C. WASTE, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

Facility Name
Peñuelas Valley Landfill
Road PR-385, Km .4.5, Tallaboa Ward
Peñuelas, Puerto Rico
NPDES Tracking Number PRR053203

RESPONDENT

Proceeding pursuant to Sections 308(a) and 309(a) of
the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER AND
INFORMATION REQUEST

DOCKET NUMBER
CWA-02-2017-3103

ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE
COMPLIANCE ORDER

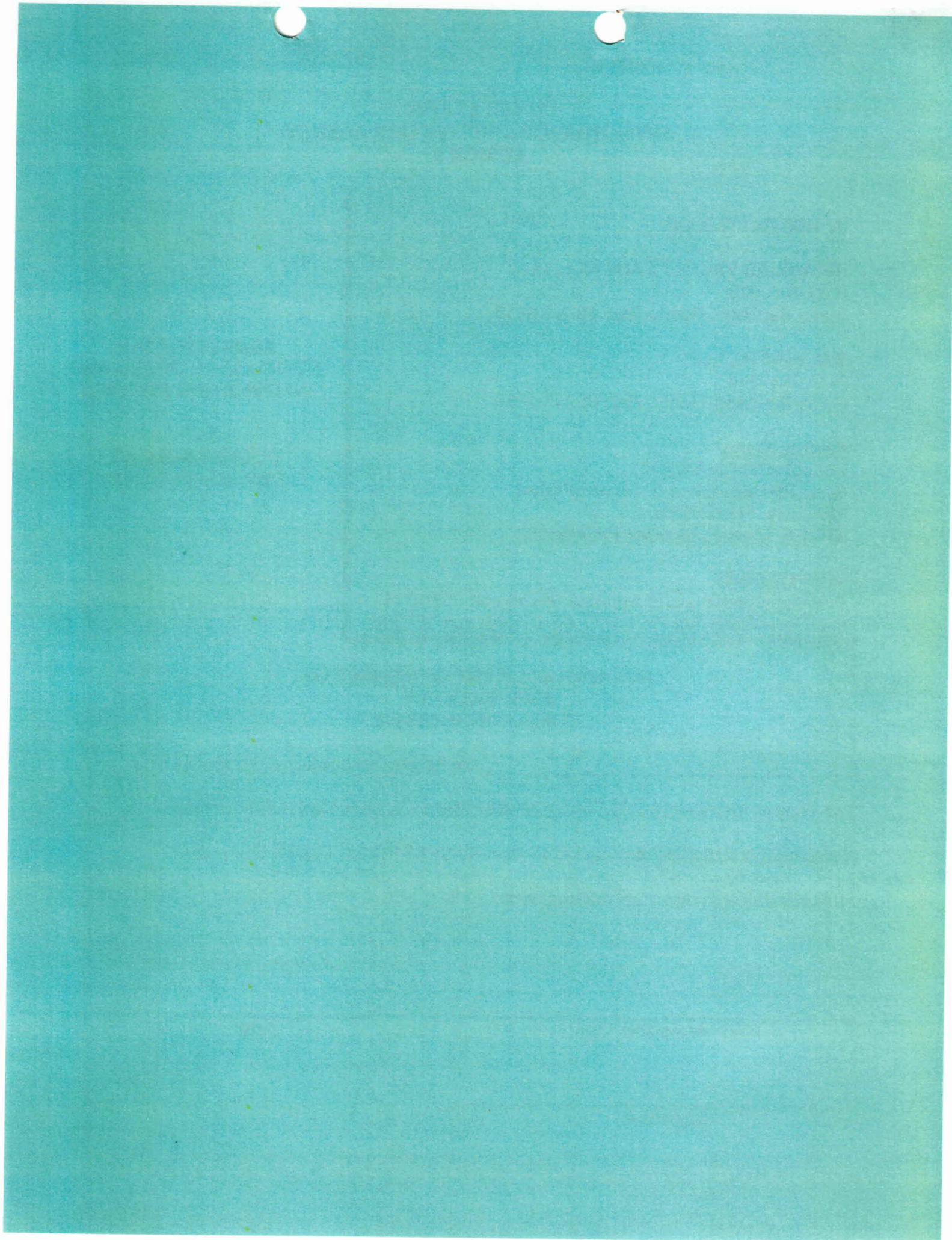
I, _____, do hereby acknowledge the receipt of a
true copy of the ADMINISTRATIVE COMPLIANCE ORDER, CWA-02-2017-3103.

Pursuant to the signatories requirements in 40 CFR§122.22, I certify that I am
authorized to sign this acknowledgement.

Print Name and Title

Date

Signature





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II, SUITE 7000
GUAYNABO, PUERTO RICO 00968-8069

030217

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Randy Jansen
President
Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago
Puerto Rico 00741-0918

Re: Administrative Compliance Order
Peñuelas Valley Landfill, LLC./E.C. Waste, LLC.
Docket Number CWA-02-2017-3103
NPDES Tracking Number PRR053203

Dear Mr. Jansen:

The United States Environmental Protection Agency (EPA), Region 2, has made findings that the Peñuelas Valley Landfill, LLC./E.C. Waste, LLC. ("PVL/ECW") is in violation of the Clean Water Act (the "Act"), 33 U.S.C. §1251 et seq. Enclosed are two (2) originals of the Administrative Compliance Order (ORDER) Docket Number CWA-02-2017-3103, issued to PVL/ECW pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a), which details EPA's findings of violation.

Please acknowledge receipt of the Order on one of the originals and return it by mail. Failure to comply with the enclosed ORDER may subject PVL/ECW to civil and/or criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER may also subject PVL/ECW to ineligibility for participation in work associated with Federal contracts, grants, or loans.

If you have any questions regarding this matter, please contact Mr. Jaime Lopez, of the Multimedia Permits and Compliance Branch, Clean Water Act Team, at (787) 977-5851.

Sincerely,

Carmen R. Guerrero-Perez
Director
Caribbean Environmental
Protection Division

Enclosures

cc: Angel Meléndez, EQB (w/ Order)

CONCURRENCES						
Name: Jaime Lopez		Initial: JL		Date: 02/27/2017		
Symbol	MPCB/CWAT	MPCB/CWAT	ORC-CT	MPCB	CEPD	ORC-CT
Surname	López	Rivera	Rivera-Ocasio	Rodriguez	Guerrero	Velez
Date	2/28/17	2/28/17		2/28/17	March 16	2/28/17



2000
2000
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2000

bcc: D. McKenna, DECA/WCB (w/ AO)
B McGarry, DECA/CAPSB (w/ AO)
J. Lopez, CEPD (w/ AO)
CEPD File (w/ AO)

bcc: D. McKenna, DECA/WCB (w/ AO)
B McGarry. DECA/CAPSB (w/ AO)
J. Lopez, CEPD (w/ AO)
CEPD File (w/ AO)

Case Conclusion Data Sheet

Draft

EA #:
Date Entered:
ORC Branch:

Information

Case and Facility Information
Court or Administrative Docket
or Index Number
Enforcement Action Name

CWA-02-2017-3103

Peñuelas Valley Landfill, LLC/E.C. Waste, LLC

Site(s):

Peñuelas Valley Landfill

Enforcement Action Type
Primary Statute/Section Violated
Other Statutes/Sections
CFR Citations:

CWA 309(a) AO For Compliance
CWA 301- 402 NPDES Permit Violations - Stormwater - Non-construction
122.26

Priority Activity

☒ Core Priority

EPA Lead Attorney
EPA Program Contact

Evelyn Rivera-Ocasio
Jaime Lopez

ORC
CEPD-MPCB-CWAT

(office) 787-977-5859
(office) 787-977-5851

Violation Type

Violation of a permit requirement or condition. [Note: operation discharge or emission be listed under NOPRMT.]

Was this action taken in response to a violation found through an inspection?

☒ Yes ☐ No

ICIS Inspection Name: Penuelas Valley Landfill
Date: 08/10/2016

Does the action involve Integrated Planning (IP) remedies consistent with EPA's Integrated Municipal Stormwater and Wastewater Planning Approach Framework?

☐ Yes ☒ No

Was this a Multi-Media action? (check all that apply)

☐ Yes ☒ No

Is the community impacted by the alleged violation(s) different than the location of the Respondent(s)/Defendant(s)?

☐ Yes ☒ No

Do you have reason to believe that environmental justice concerns may be raised?

☐ Yes ☒ No

NextGen element included in final order/settlement?

☐ Yes ☒ No

Was Voluntary Disclosure Policy applied to this action?

☐ Yes ☒ No

Was Alternative Dispute Resolution used in this action?

☐ Yes ☒ No

Conclusion Type

Administrative Compliance Order

Date of Final Order Lodging

Date of Final Order

Estimated Termination Date

Resolution Code

Unilateral Administrative Order without Adjudication

Complying Action

Complying Action

Total Cost: \$0.00

Type

Units

Media

Type

Units

Media

Type

Units

Media

Reduction of Ongoing Releases

Total Cost: \$0.00

Type

☐ Implement BMPs for Industrial Stormwater

Units

☐ Pounds/yr

Media

Water (navigable surface)

Pollutant	Amount	National Priority	Regional Priority	OECA Core P
TOTAL SUSPENDED SOLIDS	521			Yes
(TSS)	003-			Yes
IRON	9			
	667-			

Type

Units

Media

Type

Units

Media

Prevention of Future Releases

Total Cost: \$0.00

Type

Units

Media

Type

Units

Media

Type

Units

Media

Work Practices

Total Cost: \$0.00

Type

(Enter additional types
on separate lines)

Injunctive Relief - Old Method

SEP

SEP(s)

Penalty

Penalty

Final Assesed Penalty (Not including value of any SEP)

EPA \$0.00

State and Local Government \$0.00

For Multi-Media actions, enter the Federal amounts by statute:

Statute

Amount

Cost Recovery

CERCLA Cost Recovery

Amount of cost recover awarded

EPA	\$0.00
State and Local Government	\$0.00

Summary

Case Summary

Respondent failed to comply with the NPDES 2015 MSGP requirements for failure to take corrective actions when triggered exceedances for the TSS parameter. ACO issued.

Self Disclosure

Self Disclosure Information

Disclosure under Audit Policy?	<input type="radio"/> Yes <input checked="" type="radio"/> No
Disclosure under EPA's Small Business Policy?	<input type="radio"/> Yes <input checked="" type="radio"/> No

Milestones

Description	Frequency	Page	Due
-------------	-----------	------	-----



OECA Environmental Benefits Calculator for Industrial Non- Construction Storm Water (Version 1.2 8/14/06)

Size of site subject to storm water runoff (acres)	163
Select a State and County	
Average Annual Rainfall (inches/year)	80.000
Impermeability of surface	Medium (ex. packed soils)
Annual Storm Water Flow (gallons/year)	177,033,648

Existing BMPs	Some - 75% efficiency
---------------	-----------------------

The following table should only be used if case-specific data are available.

Pollutant	Case Specific Out of Compliance Pollutant Concentration (mg/L)	In Compliance Pollutant Concentration from Permit (mg/L)
Biochemical Oxygen Demand (BOD ₅)		
Chemical Oxygen Demand (COD)		
Nitrate + Nitrite Nitrogen		
Oil & Grease		
Total Phosphorus		
Total Suspended Solids (TSS)		
Total Iron		

Pollutant	Final Load Reductions (lbs)
Biochemical Oxygen Demand (BOD ₅)	N/A
Chemical Oxygen Demand (COD)	N/A

Nitrate + Nitrite Nitrogen	N/A
Oil & Grease	N/A
Total Phosphorus	N/A
Total Suspended Solids (TSS)	521,003
Total Iron	9,667

Note to users: Your Excel security level needs to be set to "Medium" or "Low" for this calculator to run the macros. When in Excel, click on Tools from the tool bar, select Macro, select Security, select "Medium" and click "OK". Close and then relaunch Excel. If you get a message box asking whether to enable the macros, please click "Enable macros".

N/A is shown when no pollutant reductions are expected. This will occur when the pre-compliance pollutant concentration is lower than the pollutant's 1995 MSGP benchmark

concentration.

